

Harvey R. Miller  
 Stephen Karotkin  
 Joseph H. Smolinsky  
 WEIL, GOTSHAL & MANGES LLP  
 767 Fifth Avenue  
 New York, New York 10153  
 Telephone: (212) 310-8000  
 Facsimile: (212) 310-8007

Attorneys for Debtors  
 and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK**

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	:
<b>In re</b>	: <b>Chapter 11 Case No.</b>
	:
<b>MOTORS LIQUIDATION COMPANY, et al.,</b>	: <b>09-50026 (REG)</b>
<b>f/k/a General Motors Corp., et al.</b>	:
	:
<b>Debtors.</b>	: <b>(Jointly Administered)</b>
	:
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**NOTICE OF HEARING ON DEBTORS' OBJECTION  
 TO ADMINISTRATIVE CLAIM NO. 70792 FILED BY JOHN MEALER**

PLEASE TAKE NOTICE that upon the annexed Objection, dated February 26, 2011 (the "**Objection**") of Motors Liquidation Company (f/k/a General Motors Corporation) and its affiliated debtors, as debtors in possession (collectively, the "**Debtors**"), to the allowance of Administrative Proof of Claim No. 70792 filed by John Mealer, all as more fully set forth in the Objection, a hearing will be held before the Honorable Robert E. Gerber, United States Bankruptcy Judge, in Room 621 of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, on **March 29, 2011 at 9:45 a.m. (Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses to the Objection must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of

the Bankruptcy Court, and shall be filed with the Bankruptcy Court (a) electronically in accordance with General Order M-399 (which can be found at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov)) by registered users of the Bankruptcy Court's filing system, and (b) by all other parties in interest, on a CD-ROM or 3.5 inch disk, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 and on (i) Weil, Gotshal & Manges LLP, attorneys for the Debtors, 767 Fifth Avenue, New York, New York 10153 (Attn: Harvey R. Miller, Esq., Stephen Karotkin, Esq., and Joseph H. Smolinsky, Esq.); (ii) the Debtors, c/o Motors Liquidation Company, 401 South Old Woodward Avenue, Suite 370, Birmingham, Michigan 48009 (Attn: Thomas Morrow); (iii) General Motors LLC, 400 Renaissance Center, Detroit, Michigan 48265 (Attn: Lawrence S. Buonomo, Esq.); (iv) Cadwalader, Wickersham & Taft LLP, attorneys for the United States Department of the Treasury, One World Financial Center, New York, New York 10281 (Attn: John J. Rapisardi, Esq.); (v) the United States Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 2312, Washington, D.C. 20220 (Attn: Joseph Samarias, Esq.); (vi) Vedder Price, P.C., attorneys for Export Development Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael J. Edelman, Esq. and Michael L. Schein, Esq.); (vii) Kramer Levin Naftalis & Frankel LLP, attorneys for the statutory committee of unsecured creditors, 1177 Avenue of the Americas, New York, New York 10036 (Attn: Thomas Moers Mayer, Esq., Robert Schmidt, Esq., Lauren Macksoud, Esq., and Jennifer Sharret, Esq.); (viii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Tracy Hope Davis, Esq.); (ix) the U.S. Attorney's Office, S.D.N.Y., 86 Chambers Street, Third Floor, New York, New York 10007

(Attn: David S. Jones, Esq. and Natalie Kuehler, Esq.); (x) Caplin & Drysdale, Chartered, attorneys for the official committee of unsecured creditors holding asbestos-related claims, 375 Park Avenue, 35th Floor, New York, New York 10152-3500 (Attn: Elihu Inselbuch, Esq. and Rita C. Tobin, Esq.) and One Thomas Circle, N.W., Suite 1100, Washington, DC 20005 (Attn: Trevor W. Swett III, Esq. and Kevin C. Maclay, Esq.); (xi) Stutzman, Bromberg, Esserman & Plifka, A Professional Corporation, attorneys for Dean M. Trafelet in his capacity as the legal representative for future asbestos personal injury claimants, 2323 Bryan Street, Suite 2200, Dallas, Texas 75201 (Attn: Sander L. Esserman, Esq. and Robert T. Brousseau, Esq.); and (xii) John L. Mealer, 6333 Gardenia Lane, Show Low, AZ 85901 so as to be received no later than **March 22, 2011, at 4:00 p.m. (Eastern Time)** (the “**Response Deadline**”).

PLEASE TAKE FURTHER NOTICE that if no response is timely filed and served with respect to the Objection, the Debtors may, on or after the Response Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Objection, which order may be entered with no further notice or opportunity to be heard offered to any party.

Dated: New York, New York  
February 26, 2011

/s/ Joseph H. Smolinsky

Harvey R. Miller  
Stephen Karotkin  
Joseph H. Smolinsky

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

Attorneys for Debtors  
and Debtors in Possession

Harvey R. Miller  
Stephen Karotkin  
Joseph H. Smolinsky  
WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
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Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<b>In re</b>	:
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<b>MOTORS LIQUIDATION COMPANY, <i>et al.</i>,</b>	:
<b>f/k/a General Motors Corp., <i>et al.</i></b>	:
	:
<b>Debtors.</b>	:
	:
-----X	

**Chapter 11 Case No.**

**09-50026 (REG)**

**(Jointly Administered)**

**DEBTORS' OBJECTION TO  
ADMINISTRATIVE CLAIM NO. 70792 FILED BY JOHN MEALER**

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TO THE HONORABLE ROBERT E. GERBER,  
UNITED STATES BANKRUPTCY JUDGE:

Motors Liquidation Company (f/k/a General Motors Corporation) (“**MLC**”) and its affiliated debtors, as debtors in possession (collectively, the “**Debtors**”), respectfully represent:

**Relief Requested**

1. The Debtors file this Objection (the “**Objection**”), pursuant to section 502(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 3007(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), seeking entry of an order disallowing and expunging Administrative Claim No. 70792 (the “**Mealer Claim**,” a copy of which is annexed hereto as **Exhibit “A”**) filed by John Mealer (“**Claimant**”). The Debtors have examined the Mealer Claim and the hundreds of pages of documents Claimant has filed in these chapter 11 cases and in other actions Claimant has commenced against the Debtors. The Mealer Claim fails to establish respondeat superior liability on the part of the Debtors, fails to state a claim on which relief can be granted, and is barred by the doctrine of accord and satisfaction. Accordingly, the Debtors request the entry of an order disallowing and expunging the Mealer Claim from the Debtors’ claims register.

**Jurisdiction**

2. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

**Preliminary Statement**

3. The Mealer Claim represents Claimant’s fourth bite at the apple. Through filings in this Court and multiple courts in Arizona, Claimant has sought to hold the Debtors, and other entities, liable for personal views a General Motors employee, Mr. Kris Kordella, posted on

Claimant's website on June 9, 2009. Through various court proceedings, Claimant has alleged that Mr. Kordella's comments injured Claimant's automotive business by deterring prospective investors and customers. Claimant seeks \$230 million for his alleged injuries. Common sense, and Claimant's own actions, belie Claimant's assertions.

4. As discussed further below, the Debtors cannot be held liable for Mr. Kordella's conduct because Mr. Kordella was not acting within the scope of his employment when he commented on Claimant's website. In the highly unlikely event it is determined that Mr. Kordella was acting in the scope of his employment when he commented on Claimant's website, then any liability flowing from the comments would be liabilities assumed by General Motors LLC pursuant to the Master Sale and Purchase Agreement. Importantly, however, Mr. Kordella's comments do not give rise to an actionable tort.

5. The comments cannot give rise to a plausible claim for defamation because they are mere hyperbolic opinions that do not imply the requisite factual assertion capable of being proven true or false. Likewise, the comments cannot form the basis of a plausible claim for tortious interference with a business expectancy because Claimant fails to demonstrate any actual, specific business relationship with which Mr. Kordella intentionally interfered or damaged. Claimant's allegations of trade libel are similarly spurious. As one court has already concluded, "it is simply not likely that any blog posting could cause such a response from serious investors." (Ex. N at 10.) Indeed, Claimant has left Mr. Kordella's comments on his website for more than 18 months, thus contradicting any assertion that such comments are harmful to Claimant's business.

6. Finally, Mr. Kordella apologized to Claimant for his comments and Claimant accepted the apology, thereby satisfying the doctrine of accord and satisfaction. To escalate this

dispute from one involving simple name calling to a \$230 million administrative expense claim is not only unjustifiable under the relevant facts and laws, but would also severely prejudice the estates' creditors holding valid claims. Accordingly, the Mealer Claim should be denied and expunged in its entirety.

### **Background**

#### **A. These Chapter 11 Cases**

7. On June 1, 2009 (the “**Commencement Date**”), each of the Debtors commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”).

8. On July 10, 2009, the Debtors consummated the sale of substantially all of their assets to NGMCO, Inc. (n/k/a General Motors LLC), a United States Treasury-sponsored purchaser, pursuant to section 363 of the Bankruptcy Code and that certain Amended and Restated Master Sale and Purchase Agreement (“**MSPA**”). Pursuant to section 2.3(a)(v) of the MSPA, General Motors LLC assumed “all Liability of Sellers (A) arising in the Ordinary Course of Business during the Bankruptcy Case through and including the Closing Date, to the extent such Liabilities are administrative expenses of Sellers’ estates pursuant to Section 503(b) of the Bankruptcy Code.” “Ordinary Course of Business” is defined under the MSPA, in relevant part, as “the usual, regular and ordinary course of business consistent with past practice thereof.”

9. Paragraph 71 of this Court’s July 5, 2009 Order approving the MSPA (ECF No. 2968) (the “**Sale Order**”) states that “[t]his Court retains exclusive jurisdiction to enforce and implement the terms and provisions of this Order, the MPA, all amendments thereto.”

**B. The Internet Postings**

10. As discussed further below, the Mealer Claim arises from allegedly harmful comments General Motors employee, Kris Kordella, made on Claimant's website on June 9, 2009. A recent visit to Claimant's website reveals the full content of the allegedly "injurious" statements made by Mr. Kordella, as well as Claimant's response and other postings Claimant has made about his company. Mr. Kordella's comments can be found under the heading "Why thanks for the interest Mr. Kris Kordella!" Kordella's comments according to Claimant's website are as follows:<sup>1</sup>

TO JL, What a funny guy  
Re: Your senseless blog to the Automotive News article on Whitacre. Mealer Automobiles? America's next major automobile company?? HAH!!!!!!!!!!!!!!!!!!!!!! You're a legend in your own head. And notice I didn't say mind because it's obvious you don't have one. Anyway I wish you ALL the worst the world can give to such a self serving pathetic MORON.

Good riddance clown. Sincerely, Kris K (a real engineer of real automobiles).

(Ex. B at 3.)

11. On June 15, 2009, Mr. Kordella sent an apology to Claimant, stating, "the bottom line is I shouldn't have resorted to the 'knucklehead' name calling in my blog and inferring your auto company isn't legit, because I'm sure it is. Please consider this my apology for the aforementioned actions." (*Id.* at 4.) That same day, Claimant recognized on his website that Mr. Kordella had apologized for his comments, stating:

Finally, GM Sr. Engineer Kris Kordella allowed this final comment and we can mend fences. . . . We are good to go and I wish GM and Mr. Kordella luck in all aspects.

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<sup>1</sup> Available at: <http://mealercompanies.com/?p=89>, last visited February 18, 2011. This posting is annexed hereto as **Exhibit "B."**

(*Id.* at 4.) On August 22, 2009, undermining Claimant's assertions that his business was ruined by Mr. Kordella's earlier comments, Claimant issued a notice responding to, and soliciting interest in, employment with his company:<sup>2</sup>

Quite a few people have inquired about opportunity with Mealer Companies LLC. Funding is not 100% yet, but as we get to that point we will need hundreds of people for immediate help within the company, plus the hundreds in the construction industry as well as thousands more in the companies related to our manufacturing and products.

(Ex. C at 2.) In the comments following this posting, numerous individuals and company representatives expressed interest in Claimant's company. (*Id.* ) On September 26, 2009, Claimant again issued a notice regarding the status of his investment opportunities and company operations:<sup>3</sup>

It appears that we are under negotiations for funding and if all goes well, you will see our Bridge Vehicle hitting the market in the next 18 months.

(Ex. D at 2.) On October 24, 2009, Claimant predicted rapid developments in the business:<sup>4</sup>

October . . . brings us to a point where we hope to be moving into our initial corporate offices this winter as we expect to begin making major advances to bringing our product to manufacturing and to market by fall 2010. These are exciting times and I hope you will follow our progress. As we move our many engineers, techs and development personnel into the area, the enthusiasm will lead to constant updates and they should keep you up the [sic] speed.

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<sup>2</sup> Available at <http://mealercompanies.com/?p=344>, last visited February 18, 2011. This posting is annexed hereto as **Exhibit "C."**

<sup>3</sup> Available at <http://mealercompanies.com/?p=377>, last visited February 18, 2011. A printout of this posting is annexed hereto as **Exhibit "D."**

<sup>4</sup> Available at <http://mealercompanies.com/?p=387>, last visited February 18, 2011. A printout of this posting is annexed hereto as **Exhibit "E."**

(Ex. E at 2.) Finally, on January 1, 2010, Claimant updated his followers with news that the new year promised to be good for business:<sup>5</sup>

Mealer Companies LLC has a quite [sic] a bit going for the company this year. Funding is just around the corner and a wide open world to help heal. The MEALER products are not the issue and manufacturing along with product sales are not going to be a problem.

(Ex. F at 2.)

**C. Claimant's Attempts to Seek Relief for Mr. Kordella's Comments**

1. Claimant's First Filing in these Chapter 11 Cases

12. On March 12, 2010, Claimant filed with this Court a Motion to Approve Procedures for Administering Claims Under Bankruptcy Code Section 503(a)(1)(A),(3)(4)(A)(C) (ECF No. 5269) (the "**Administering Claims Motion**") seeking to "place this 'entity' in position for relief under Tort claims against General Motors Corporation for intentional criminal actions upon my private person that maliciously, intentionally and directly affected my business which occurred on June 9, 2009." (Admin. Cl. Mot. at 1.) The Administering Claims Motion states that Claimant owns an Arizona registered alternative fuel powered automobile manufacturing company and on June 9, 2009, an employee of General Motors Corporation allegedly signed on to the website of Claimant's company and left comments "to the crippling detriment of" Claimant and the "pending business-growth funding of Mealer Companies LLC." (*Id.* at 3.) The Administering Claims Motion was denied by this Court on April 14, 2010, for failure to show a prima facie entitlement to relief (ECF No. 5507).

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<sup>5</sup> Available at <http://mealercompanies.com/?p=457>, last visited February 18, 2011. A printout of this posting is annexed hereto as **Exhibit "F."**

2. Claimant's Adversary Proceeding

13. On October 4, 2009, Claimant filed a voluntary petition seeking protection for himself as an individual under chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Arizona, case number 09-24899 (the "**Arizona Bankruptcy Case**").

14. On March 30, 2010, Claimant commenced an adversary proceeding, case number 10-00503 (the "**Adversary Proceeding**") against, inter alia, "General Motors Corporation," "General Motors LLC" and "Motors Liquidation Co." in the Arizona Bankruptcy Case. The complaint (the "**Adversary Complaint**") in the Adversary Proceeding is annexed hereto as **Exhibit "G."** The facts underlying the Adversary Complaint are substantially similar to those described in the Administering Claims Motion and all relate to the comments Mr. Kordella posted on Claimant's website. Specifically, the Adversary Complaint alleges causes of action for intentional interference with prospective economic advantage (Ex. G at 16) and defamation and other encroachments (Ex. G at 17.)

15. On April 29, 2010, the Debtors filed a motion to dismiss the Adversary Complaint on the grounds that (i) the Adversary Complaint violated the automatic stay in place as a result of the commencement of these chapter 11 cases; (ii) Claimant lacked standing to bring the Adversary Proceeding because his standing was transferred to an appointed trustee when he filed for chapter 7 protection and the trustee had not abandoned the claims underlying the Adversary Proceeding; and (iii) the Adversary Complaint failed to state a claim on which relief can be granted. The Debtors' Motion to Dismiss is annexed hereto as **Exhibit "H."** General Motors LLC also filed a motion to dismiss the Adversary Complaint arguing that it did not assume liability for the Adversary Proceeding under the MSPA and that this Court retained jurisdiction to determine all issues related to the MSPA.



16. On June 2, 2010, the Arizona Bankruptcy Court held a hearing on the Debtors' and General Motors LLC's respective motions to dismiss. The transcript from the June 2, 2010 hearing before the Arizona Bankruptcy Court is annexed hereto as **Exhibit "I."** At the hearing, the Arizona Bankruptcy Court dismissed the Adversary Proceeding as to both MLC and General Motors LLC stating "the Court is going to grant the motion to dismiss without leave to amend based on the orders entered by the bankruptcy court, and the injunctions or retention of jurisdiction provisions therein." (Ex. I: 9:23-10:1.). The order dismissing the Adversary Proceeding against the Debtors without leave to amend is annexed hereto as **Exhibit "J."**

3. Claimant's Lawsuit in Arizona State Court and Arizona District Court

17. On June 8, 2010, Claimant filed a complaint in the Superior Court of the State of Arizona for Navajo County, case number 10-00316 (the "**State Court Action**") against, inter alia, the Debtors, General Motors LLC, and Mr. Kordella. The complaint in the State Court Action was not served on the Debtors. General Motors LLC removed the State Court Action to the United States District Court for the District of Arizona (the "**District Court**"), case number 10-08172 (the "**District Court Action**").

18. The Complaint in the State Court and District Court Action alleges 40 causes of action and is based on the same events described in the Administering Claims Motion and the Adversary Proceeding. The complaint (the "**District Court Complaint**") in the District Court Action is annexed hereto as **Exhibit "K."**

19. On June 15, 2010, General Motors LLC filed a motion to dismiss, annexed hereto as **Exhibit "L,"** the District Court Action on the grounds that "General Motors LLC did not assume responsibility for claims arising from alleged tortious acts by employees of MLC that occurred prior to the July 10, 2009 closing date" on the MSPA. (Ex. L at 3.) Notwithstanding

this Court's exclusive jurisdiction to enforce and implement the MSPA, on November 2, 2010, the District Court entered an order, annexed hereto as **Exhibit "M,"** granting General Motors LLC's motion to dismiss and finding that "[b]ecause GM did not assume successor liability, Mr. Mealer's claims against GM are barred." (Ex. M at 8.)

20. Mr. Kordella also filed a motion to dismiss the District Court Action for, inter alia, lack of personal jurisdiction. In the order granting Mr. Kordella's motion to dismiss, annexed hereto as **Exhibit "N,"** the District Court observed:

Mr. Mealer believes that Mr. Kordella's comments intimidated numerous potential investors and ultimately kept his \$200,000,000 stream from materializing. Mr. Kordella could not have known that this harm was likely to be suffered in Arizona *because it is simply not likely that any blog posting could cause such a response from serious investors* – especially if Mr. Mealer's automobile is truly revolutionary.

(Ex. N at 10) (emphasis added).

4. Claimant's Administrative Proof of Claim

21. On February 5, 2011, Claimant filed the Mealer Claim in these chapter 11 cases. The Mealer Claim does not allege any wrongful conduct directly on the part of the Debtors. Rather, the Mealer Claim expressly states that it is "for respondeat superior." (Ex. A at 3.) The Mealer Claim seeks \$230 million and, once again, alleges that "General Motors Corporation engineering employee, Mr. Kris J. Kordella" visited Claimant's website "using a GM computer and IP address . . . and posted various injurious falsehoods about Mr. Mealer and the Mealer Automobile thus unlawfully destroying growth funding and the 'rival' business of Mealer Companies LLC." (Ex. A at 7.) The Mealer Claim does not quote any of the comments Mr. Kordella allegedly made, but it does allege that his comments caused Claimant "to lose prospective funding to the tune of \$200,000,000" and "prospective [s]ales . . . [worth]

\$30,000,000.” *Id.* The Mealer Claim asserts “defamation of character/trade libel” and “intentional interference with Mr. Mealer’s Prospective Advantage.” *Id.* at 9.

### **Argument**

#### **A. The Debtors Cannot Be Held Liable for Mr. Kordella’s Actions Under a Theory of Respondeat Superior**

22. Claimant asserts that the Debtors should be held liable on a theory of respondeat superior for actions taken by a General Motors employee located in Michigan. *Id.* at 8.

Claimant further asserts that he suffered harm for such actions in Arizona where he resides and where his business is registered. *Id.* In any case presenting a potential choice of law issue, the court must first determine “whether there is an actual conflict between the laws of the jurisdictions involved.” *Allstate Ins. Co. v. Stolarz*, 613 N.E.2d 936, 937 (N.Y. 1993). If there is no conflict between the legal principles of the various jurisdictions, then the court need not engage in a choice of law analysis. *Id.* Here, the law of respondeat superior is similar in both Arizona and Michigan and, as such, the Court need not undertake a choice of law analysis. The Debtors cannot be held liable for Mr. Kordella’s actions under either state’s laws regarding respondeat superior liability.

##### **1. Mr. Kordella’s Actions Were Not Committed in the Scope of His Employment**

23. For an employer to be held liable for its employee’s acts through the doctrine of respondeat superior, under both Arizona and Michigan law the employee’s acts must have been committed within the scope of employment. *Ray Korte Chevrolet v. Simmons*, 571 P.2d 699, 704 (Ariz. Ct. App. 1977); *Nichol v. Billot*, 279 N.W. 2d 761, 294, n.3 (Mich. 1979). An employer is not liable for “torts intentionally or recklessly committed by an employee beyond the scope of his master’s business.” *Rogers v. J.B. Hunt Transp., Inc.*, 649 N.W.2d 23, 26 (Mich. 2002). Under Arizona law, “an employee is acting within the scope of his employment while he

is doing any reasonable thing which his employment expressly or impliedly authorizes him to do or which may reasonably be said to have been contemplated by that employment as necessarily or probably incidental to the employment.” *Ray Korte Chevrolet*, 571 P.2d at 704. Similarly, under Michigan law an employee acts in the scope of his employment “while engaged in the service of his master, or while about his master’s business.” *Barnes v. Mitchell*, 67 N.W. 2d 208, 210 (Mich. 1954).

24. When Mr. Kordella posted the allegedly harmful comments on Claimant’s website, Mr. Kordella was not acting within the scope of his employment. Mr. Kordella is an engineer, hired by General Motors to work on issues relating to the design and manufacture of vehicles. He was not hired to post his personal views on websites nor is his master’s business related to posting opinions on websites. Common sense indicates that providing one’s personal views on a website are not necessarily or probably incidental to one’s employment as a General Motors engineer. Even assuming, arguendo, that Mr. Kordella’s comments give rise to an actionable tort, the Debtors cannot be held liable for Mr. Kordella’s actions in providing his personal views on Claimant’s website because such actions were outside the scope of Mr. Kordella’s employment.

2. If Mr. Kordella Was Acting in the Scope of His Employment, Liability for Such Actions Was Assumed by General Motors LLC

25. In the event Mr. Kordella’s actions are deemed to have been committed within the scope of his employment, any liability flowing from such actions was assumed by General Motors LLC under the MSPA. As noted above, section 2.3(a)(v) of the MSPA states that General Motors LLC assumed “all Liability of Sellers (A) arising in the Ordinary Course of Business during the Bankruptcy Case through and including the Closing Date, to the extent such

Liabilities are administrative expenses of Sellers' estates pursuant to Section 503(b) of the Bankruptcy Code." If Mr. Kordella was a General Motors employee acting in the ordinary course of business on June 9, 2009, when he posted the allegedly harmful comments such that his actions could give rise to respondeat superior liability, then any such liability was assumed by General Motors LLC under the foregoing provision of the MSPA and the Debtors' estates should not be held liable for such claim.

**B. The Mealer Claim Fails to State a Claim Upon Which Relief Can be Granted**

26. The Court should also expunge the Mealer Claim because it fails to state any plausible claims on which relief may be granted. Dismissal of a proof of claim under 11 U.S.C. § 502(c) is equivalent to dismissing a claim under Fed. R. Civ. P. 12(b)(6) for failure to state a claim on which relief can be granted. *See Flake v. Alper Holdings USA, Inc. (In re Alper Holdings USA, Inc.)*, 398 B.R. 736, 748 (S.D.N.Y. 2008) (affirming bankruptcy court's dismissal of proof of claim for failure to state a plausible claim on which relief may be granted).

27. A plaintiff must plead more than the possibility of relief to survive a motion to dismiss. *Hayden v. Paterson*, 594 F.3d 150, 161 (2d Cir. 2010) (applying New York law) (citing *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009)). As the Supreme Court has recently made clear: "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements" are insufficient to survive a motion to dismiss. *Ashcroft v. Iqbal*, 129 S. Ct. at 1949. Rather, "[i]n order to withstand a motion to dismiss, a complaint must plead 'enough facts to state a claim for relief that is plausible on its face.'" *Patane v. Clark*, 508 F.3d 106, 111-12 (2d Cir. 2007) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the

reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 129 S. Ct. at 1949.

28. In ruling on a motion to dismiss, the Southern District of New York applies a two-part analysis. “First, the court should begin by ‘identifying pleadings that, because they are no more than legal conclusions, are not entitled to the assumption of the truth.’” *In re M. Fabrikant & Sons, Inc.*, Bankr. No. 06-12737, 2009 WL 3806683, at \*11 (Bankr. S.D.N.Y. Nov. 10, 2009) (citing *Iqbal*, 129 S. Ct. at 1950). Second, the court should “give all ‘well-pleaded factual allegations’ an assumption of veracity and determine whether, together, they plausibly give rise to an entitlement of relief.” *Id.* (quoting *Iqbal*, 129 S. Ct. at 1950). The Mealer Claim fails to meet this standard, and this Court should disallow it in its entirety.

1. Arizona Law Applies to the Substantive Torts Alleged in the Mealer Claim

29. In evaluating the merits of a claim, bankruptcy courts apply the state law under which the claim arises. *In re Ernst*, 368 B.R. 296, 306 (Bankr. S.D.N.Y. 2007) (“Property interests are created and defined by state law and unless some federal interest requires a different result, there is no reason why such interests should be analyzed differently in a bankruptcy proceeding.”) (citing *Butner v. United States*, 440 U.S. 48, 55 (1979)). A court sitting in New York will apply New York’s choice of law rules in determining which state’s substantive law should apply. *In re O.P.M. Leasing Services, Inc.*, 40 B.R. 380, 398 (Bankr. S.D.N.Y. 1984). Under New York choice of law principles, a tort claim is governed by the laws of the jurisdiction with the greatest interest in having its law applied to the dispute. *Padula v. Lilarn Props. Corp.*, 84 N.Y.2d 519, 521 (1994). When the conflict involves rules that regulate conduct, the law of the place of the tort governs. *Id.* at 522. Courts have held that laws regarding defamation and similar torts constitute conduct-regulating rules that are “governed by the law of the place where

the tort occurred, which is the place where the plaintiff's injuries occurred." *Hitchcock v. Woodside Literary Agency*, 15 F. Supp. 2d 246, 251 (E.D.N.Y. 1998) (applying Maryland law to claim for defamation and related torts where defendant's conduct occurred in New York, but was felt by the plaintiff in Maryland, her domicile); *Schultz v. Boy Scouts of Am., Inc.*, 480 N.E.2d 679, 683 (N.Y. 1985) ("when the defendant's negligent conduct occurs in one jurisdiction and the plaintiff's injuries are suffered in another . . . the locus in this case is determined by where the plaintiff's injuries occurred.") Accordingly, the substantive law of Arizona should apply to the torts alleged in the Mealer Claim because any injury flowing from Mr. Kordella's alleged wrongful conduct, was felt by Claimant in Arizona where he resides and operates his business. (Ex. A at 7.)

2. Claimant Fails to State a Plausible Claim for Defamation

30. Under Arizona law, the tort of defamation requires a false publication that brings the defamed person into disrepute, contempt, or ridicule, or impeaches the plaintiff's honesty, integrity, virtue, or reputation. *Dube v. Likins*, 167 P.3d 93, 105 (Ariz. Ct. App. 2007). Whether a statement is capable of defamatory meaning is a question of law for the court. *Id.* Rhetoric or epithet cannot be actionable unless it implies a factual assertion. *Id.* Statements which "cannot 'reasonably be interpreted as stating actual facts' about an individual . . . ." have been repeatedly found to be protected speech. *Turner v. Devlin*, 848 P.2d 286, 289 (Ariz. 1993).

31. In determining whether a statement could be viewed as implying an assertion of fact, courts consider: (1) whether the declarant used figurative or hyperbolic language that would negate the impression that his statement was one of fact; (2) whether the tenor or context in which the statement was made would negate the impression of a statement of fact; and (3)

whether the kind of statement made is susceptible of being proved true or false. *Unelko Corp. v. Rooney*, 912 F.2d 1049, 1053 (9th Cir. 1990).

32. Here, Mr. Kordella's comments cannot reasonably be viewed as assertions of fact. Mr. Kordella's statements used figurative and hyperpolic language such as by stating that Claimant was a "clown" and did not have a "mind." (Ex. B at 3.) Additionally, the tenor and context of the statements negate the impression that the statements are facts. Mr. Kordella posted the comments as an informal message to Claimant on Claimant's website in response to comments Claimant had posted on another website. Finally, the statements are not capable of being proved true or false. For example, it is impossible to prove whether an individual is "senseless" or a "self serving pathetic moron." (*See id.*) Such terms are merely hyperbolic epithets and opinions that do not constitute the kind of speech that can be deemed defamatory. Accordingly, the Mealer Claim fails to state a plausible claim for defamation.

3. Claimant Fails to State a Plausible Claim for Tortious Interference With Prospective Advantage

33. Claimant asserts a claim for "Intentional Interference with Mr. Mealer's Prospective Advantage." (Ex. A at 9.) Arizona tort law does not recognize a cause of action for interference with "prospective advantage", however, the tort of tortious interference with business expectancy is recognized. To state a valid claim of tortious interference with a business expectancy, a plaintiff must allege (1) the existence of a valid business expectancy; (2) the interferer's knowledge of the business expectancy; (3) the interferer intentionally induced or caused termination of the business expectancy; and (4) damage suffered as a result of termination of the business expectancy. *Dube v. Likins*, 167 P.3d at 99-100.



34. With respect to the first prong, a plaintiff's business expectancy must amount to more than a "hope." *Marmis v. Solot Co.*, 573 P.2d 899, 902 (Ariz. Ct. App. 1977). Rather, to state a claim for tortious interference upon which relief may be granted, "there must be a colorable economic relationship between the plaintiff and a third party with the potential to develop into a full contractual relationship." *Locricchio v. Legal Servs. Corp.*, 833 F.2d 1352, 1357 (9th Cir. 1987). Courts have uniformly held that the plaintiff must identify the relationship with which the defendant interfered with some degree of specificity or certainty. *See, e.g.*, *Stewart Title Guar. Co. v. Am. Abstract & Title Co.*, 215 S.W.3d 596, 603 (Ark. 2005) ("some precise business expectancy or contractual relationship must be obstructed"); *Ethan Allen, Inc. v. Georgetown Manor, Inc.*, 647 So.2d 812, 815 (Fla. 1994) ("[a]n action for tortious interference with a business relationship requires a business relationship evidenced by an actual and identifiable understanding or agreement which in all probability would have been completed if the defendant had not interfered"); *Schuler v. Abbott Labs.*, 639 N.E.2d 144, 147 (Ill. App. Ct. 1993) ("Plaintiff states a cause of action only if he alleges a business expectancy with a specific third party"); and *Roth v. Rhodes*, 30 Cal. Rptr. 2d 706, 715 (Cal. Ct. App. 1994) ("an existing relationship is required").

35. The Mealer Claim fails to identify any specific third party with whom Claimant had an actual and identifiable economic relationship. Claimant merely asserts that Mr. Kordella's comments caused him to lose "prospective [s]ales" and "prospective funding" from "prospective investors" (Ex. A at 7.) The Mealer Claim does not identify any specific investor or group of investors who were dissuaded from investing in Claimant's company due to Mr. Kordella's comments. Likewise, Claimant does not mention any actual and identifiable sales, or indeed even what claimant would have been selling as claimant admits that his business was in

the “[p]re-[m]anufacturing” stages and was “subject to . . . prospective funding.” (*Id.*) Such alleged business relationships amount to nothing more than a mere “hope” and, as such, Claimant fails to state a plausible claim for tortious interference with prospective business expectancy. *Marmis*, 573 P.2d at 902.

36. Claimant similarly fails to satisfy the second and third requirements for stating a valid claim for tortious interference with prospective business expectancy. Claimant does not allege that Mr. Kordella had any knowledge of Claimant’s purported business expectancy nor does Claimant allege that Mr. Kordella intentionally induced or caused termination of the business expectancy. *Dube*, 167 P.3d at 99-100. Indeed, it is implausible that Mr. Kordella could have had any knowledge of, or intent to terminate, a business expectancy of Claimant given that Claimant himself fails to articulate an actual, identifiable business expectancy.

37. Likewise, Claimant cannot satisfy the fourth requirement for stating a plausible claim for tortious interference with prospective business expectancy because he cannot establish any actual damage suffered as a result of Mr. Kordella’s comments. Although Claimant asserts he lost \$230 million as a result of Mr. Kordella’s posting on his website, such an assertion is implausible and is belied by Claimant’s own conduct. For 18 months, Claimant has left Mr. Kordella’s comments up on his publicly-available website for the world to view, thus contradicting Claimant’s assertion that the comments were “injurious.” (Ex. A at 7.) If Claimant has suffered any actual damage from Mr. Kordella’s comments, it is a result of Claimant’s own actions in leaving the comments on his website and repeating them in countless filings in courts across the country.

38. Further, Claimant’s own comments on his website indicate that his company is doing well. For example, on August 22, 2009, Claimant noted on his website that “[q]uite a few

people have inquired about opportunity [sic] with Mealer Companies LLC.” (Ex. C at 2.) On September 26, 2009, Claimant wrote “[i]t appears we are under negotiations for funding and if all goes well, you will see our Bridge Vehicle hitting the market in the next 18 months.” (Ex. D at 2.) On October 24, 2009, Claimant wrote “we hope to be moving into our initial corporate offices this winter as we expect to begin making major advances to bringing our product to manufacturing and to market by fall 2010. These are exciting times.” (Ex. E at 2.) Finally, on January 1, 2010, Claimant wrote “Mealer . . . has [] quite a bit going for [it] this year,” and “[f]unding just around the corner.” (Ex. F at 2.) Such statements undermine Claimant’s assertion that Mr. Kordella’s comments had the effect of “destroying growth funding and the ‘rival’ business of Mealer Companies LLC.” (Ex. A at 7.) As the District Court concluded, “it is simply not likely that any blog posting could cause such a response from serious investors.” (Ex. N at 10.) Accordingly, the Mealer Claim fails to state a plausible claim for tortious interference with a business expectancy.

4. The Mealer Claim Fails to State a Cause of Action for Trade Libel

39. Claimant also asserts that the Debtors are liable to him for trade libel. (Ex. A at 9.) Arizona law regarding trade libel is similar to that for defamation. The former requires an “intentional publication of an injurious falsehood” which disparages the quality of the plaintiff’s business property or products, and the publication results in an actual pecuniary loss to the plaintiff. *Gee v. Pima County*, 612 P.2d 1079, 1080 (Ariz. Ct. App. 1980); 9A Ariz. Prac., Business Law Deskbook § 33:6 (2010-2011 ed.). The same First Amendment requirements and immunities which govern actions for defamation are applied to actions for trade libel. *Unelco*, 912 F.2d at 1058. As in defamation, a qualified privilege exists for declarants whose statements are made in furtherance of some interest of social importance. *See generally Burns v. Davis*, 993

P.2d 1119 (Ariz. Ct. App. 1999) (discussing and applying qualified privilege in defamation context). Furthermore, so long as the statement in question is not found to be “specifically directed to verifiable facts,” an action for trade libel cannot be maintained. 9A Ariz. Prac., Business Law Deskbook § 33:6 (2010-2011 ed.). Statements of fact about a product which lack “precision and specificity” and are couched in an otherwise purely opinion-based comment will not be found to be trade libel. *AMCOR Inv. Corp. v. Cox Ariz. Publ’ns, Inc.*, 764 P.2d 327, 332 (Ariz. Ct. App. 1988).

40. Claimant’s cause of action for trade libel fails on several grounds. First, as discussed with respect to defamation, the statements made by Mr. Kordella on an opinion blog do not amount to the kind of “injurious falsehood” contemplated in the tort of trade libel. *See supra Gee*, 612 P.2d at 1080. The context and plain meaning of the statements made by Mr. Kordella indicate that they were expressions of hyperbole and opinion, and could not have reasonably been interpreted as assertions of fact. Assuming, arguendo, that the statements could be deemed assertions of fact, the comments qualify for the immunity granted for statements in furtherance of a socially important interest, namely a commentary on the state of automobile manufacturing in the United States and emerging technologies impacting that industry. *See Burns*, 993 P.2d at 1127-29 (discussing application of qualified privilege); *Morley v. Smith*, No. CV 04-1874-PCT-ECV, 2007 WL 1876382, at \*2 (D. Ariz. June 27, 2007) (trade libel action holding that qualified privilege applied to defendant’s statements alerting plaintiff’s potential customers that plaintiff was an illegitimate cat breeder and was violating breeder registration regulations). Second, as discussed with respect to tortious interference with a business expectancy, the Mealer Claim fails to prove any actual damages suffered due to the comments of Mr. Kordella. Indeed, Claimant’s own comments on his website indicate that business was

doing well for months after publication of Mr. Kordella's comments. As such, Claimant cannot assert a plausible cause of action for trade libel against the Debtors and the Mealer Claim should be denied.

5. The Remaining Causes of Action Amount to Mere Legal Conclusions

41. The Mealer Claim also asserts that it should be allowed pursuant to "numerous interstate commerce laws such as those found in USC Title 15 under the Sherman Act" and "anti-competitive violations." (Ex. A at 9.) The Mealer Claim does not elaborate on the foregoing theories of recovery nor does it provide any facts in support of these claims. Such assertions amount to "no more than legal conclusions" and as such "are not entitled to the assumption of the truth." *In re M. Fabrikant*, 2009 WL 3806683, at \*11 (citing *Iqbal*, 129 S. Ct. at 1950). Accordingly, the Mealer Claim must be disallowed in its entirety for failure to state a claim on which relief can be granted.

C. The Mealer Claim is Barred by the Doctrine of Accord and Satisfaction

42. The doctrine of accord and satisfaction provides further grounds to disallow and expunge the Mealer Claim. "An accord and satisfaction is a subsequent agreement to take something other than the original agreement." *Solar-West, Inc. v. Falk*, 687 P.2d 939, 944 (Ariz. Ct. App. 1984). "It is a method of discharging a contract or cause of action whereby the new agreement, or accord, is substituted for the old and the performance of the accord is the satisfaction." *Id.* at 644-45.

43. The Mealer Claim should be disallowed, because Claimant accepted Mr. Kordella's retraction and apology. As noted above, on June 15, 2009, Mr. Kordella sent an apology to Claimant, stating, "the bottom line is I shouldn't have resorted to the 'knucklehead' name calling in my blog and inferring your auto company isn't legit, because I'm sure it is.

Please consider this my apology for the aforementioned actions.” (Ex. B at 4.) Claimant accepted this apology as an accord and satisfaction when he posted the following message on his website:

GM Sr. Engineer Kris Kordella allowed this final comment, and we can mend fences. By the way, my “attack of GM” was comments on autonews.com regarding the Obama administration’s payback appointment of Ed Whitaker to a chairman position. Anyhow.. [sic] We are good to go and I wish GM and Mr. Kordella luck in all aspects.  
JL Mealer.

*Id.* Accordingly, Mr. Mealer accepted Mr. Kordella’s apology and retraction as a full satisfaction of any claim he may have had for defamation, trade libel, or tortious interference and the Mealer Claim should thus be disallowed.

#### **Notice**

44. Notice of this Objection has been provided to Claimant and to the parties in interest in accordance with the Fifth Amended Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c) and 9007 Establishing Notice and Case Management Procedures, dated January 3, 2011 (ECF No. 8360). The Debtors submit that such notice is sufficient and no other or further notice need be provided.

45. No previous request for the relief sought herein has been made by the Debtors to this or any other Court.

#### **Conclusion**

WHEREFORE the Debtors respectfully request entry of an order granting the relief requested herein and such other and further relief as is just.

Dated: New York, New York  
February 26, 2011

/s/ Joseph H. Smolinsky

Harvey R. Miller  
Stephen Karotkin  
Joseph H. Smolinsky

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

Attorneys for Debtors  
and Debtors in Possession

## **EXHIBIT “A”**



## UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

ADMINISTRATIVE  
PROOF OF CLAIM

Name of Debtor (Check only one)

- ☒ Motors Liquidation Company (f/k/a General Motors Corporation) 09-50026 (REG)  
☐ MLCS, LLC (f/k/a Saturn, LLC) 09-50027 (REG)  
☐ MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation) 09-50028 (REG)  
☐ MLC of Harlem, Inc (f/k/a Chevrolet-Saturn of Harlem, Inc) 09-13558 (REG)  
☐ Remediation and Liability Management Company, Inc (subsidiary of General Motors Corporation) 09-50029 (REG)  
☐ Environmental Corporate Remediation Company, Inc (subsidiary of General Motors Corporation) 09-50030 (REG)

The deadline for each person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, governmental entities, and trusts) to file a proof of claim for certain administrative expenses against the Debtors is (i) on or before February 14, 2011 at 5 00 p m (Eastern Time), with respect to administrative expenses arising between June 1, 2009 and January 31, 2011, and (ii) the date that is thirty (30) days after the Effective Date at 5 00 p m (Eastern Time), with respect to administrative expenses arising between February 1, 2011 and the Effective Date

ADMINISTRATIVE  
CLAIM

Name of Creditor (The person or other entity to whom the debtor owes money or property) JOHN L MEALER

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars

Name and address where notices should be sent  
 JOHN L MEALER  
 6333 GARDENIA LANE  
 RE MEALER AUTOMOBILE  
 TRADE LIBEL BY GM, GMAC, ET AL  
 SHOW LOW, AZ 85901

☒ Check box if you have never received any notices from the bankruptcy court in this case

☐ Check box if the address differs from the address on the envelope sent to you by the court

Telephone Number 928-532-8191

FILED - 70792  
 MOTORS LIQUIDATION COMPANY  
 f/k/a GENERAL MOTORS CORP  
 SDNY # 09-50026 (REG)

Last four digits of account or other number by which creditor identifies debtor MEALER

Check here ☐ replaces a previously filed claim, dated \_\_\_\_\_  
 if this claim ☐ amends

## 1. Basis for Claim

- ☐ Goods sold  
☐ Services performed  
☐ Money loaned  
☒ Personal injury/wrongful death  
☐ Taxes  
☒ Other See attached

- ☐ Retiree benefits as defined in 11 U.S.C. § 1114(a)  
☐ Wages, salaries, and compensation (fill out below)

Last four digits of SS#

Unpaid compensation for services performed

from \_\_\_\_\_ to \_\_\_\_\_  
 (date) (date)

## 2. Date debt was incurred (must be on or after June 1, 2009):

June 9th, 2009 to date

## 3. If court judgment, date obtained:

In federal court, currently

4. Total Amount of Administrative Claim: \$ 230,000.00<sup>02</sup>

☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges

## 5. Brief Description of Administrative Expense Claim (attach any additional information):

For Respondent Superior 11 USC § 523(a)(6) willful and malicious injury by GME to Creditor Mealer, et al. Trade libel, defamation... See attached.

## 6. Credits: All payments made on this claim have been credited and deducted for the purpose of making this proof of claim.

zero

## 7. Supporting Documents:

Attach copies of supporting document, such as promissory notes, contracts, security agreements, and evidence of perfection of liens  
 DO NOT SEND ORIGINAL DOCUMENTS

I will send full documentation, plus letter of admission from GMC upon response.

## 8. This Administrative Proof of Claim:

- ☒ is the first filed proof of claim evidencing the claim asserted herein  
☐ supplements a proof of claim filed on or about \_\_\_\_\_  
☐ replaces/supersedes a proof of claim filed on \_\_\_\_\_

## 9. Date-Stamped Copy: To receive an acknowledgement of the filing to your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim

See enclosed

Date

2/2/11


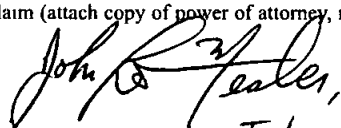
Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)

John L Mealer, President Mealer Companies LLC  
 John Lewis Mealer

THIS SPACE IS FOR COURT USE  
 ONLY

Penalty for presenting fraudulent claim: Fine up to \$500,000 or imprisonment for up to 5 years, or both 18 U.S.C. §§ 152 and 3571



<b>UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK</b>		<b>ADMINISTRATIVE PROOF OF CLAIM</b>
Name of Debtor (Check only one) <input checked="" type="checkbox"/> Motors Liquidation Company (f/k/a General Motors Corporation) 09-50026 (REG) <input type="checkbox"/> MLCS, LLC (f/k/a Saturn, LLC) 09-50027 (REG) <input type="checkbox"/> MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation) 09-50028 (REG) <input type="checkbox"/> MLC of Harlem, Inc. (f/k/a Chevrolet-Saturn of Harlem, Inc.) 09-13558 (REG) <input type="checkbox"/> Remediation and Liability Management Company, Inc. 09-50029 (REG) (subsidiary of General Motors Corporation) <input type="checkbox"/> Environmental Corporate Remediation Company, Inc. 09-50030 (REG) (subsidiary of General Motors Corporation)		  <b>ADMINISTRATIVE CLAIM</b>  FILED - 70792 <b>MOTORS LIQUIDATION COMPANY f/k/a GENERAL MOTORS CORP SDNY # 09-50026 (REG)</b>
The deadline for each person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, governmental entities, and trusts) to file a proof of claim for certain administrative expenses against the Debtors is (i) on or before February 14, 2011 at 5 00 p m (Eastern Time), with respect to administrative expenses arising between June 1, 2009 and January 31, 2011, and (ii) the date that is thirty (30) days after the Effective Date at 5 00 p m (Eastern Time), with respect to administrative expenses arising between February 1, 2011 and the Effective Date		
Name of Creditor (The person or other entity to whom the debtor owes money or property) <b>JOHN L MEALER</b>	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars <input checked="" type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court	
Name and address where notices should be sent <b>JOHN L MEALER 6333 GARDENIA LANE RE MEALER AUTOMOBILE TRADE LIBEL BY GM, GMAC, ET AL SHOW LOW, AZ 85901</b>  Telephone Number <b>928-532-8191</b>		
Last four digits of account or other number by which creditor identifies debtor <b>MEALER</b>		Check here <input type="checkbox"/> replaces a previously filed claim, dated _____ if this claim <input type="checkbox"/> amends
<b>1. Basis for Claim</b> <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input checked="" type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other <u>See attached</u> <div style="margin-left: 400px;"> <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a)  <input type="checkbox"/> Wages, salaries, and compensation (fill out below)              Last four digits of SS# _____              Unpaid compensation for services performed              from _____ to _____              (date) (date)         </div>		
<b>2. Date debt was incurred (must be on or after June 1, 2009):</b> <u>June 9th, 2009 to date</u>		<b>3. If court judgment, date obtained:</b> <u>In federal court, currently</u>
<b>4. Total Amount of Administrative Claim: \$</b> <u>230,000,000.00</u> <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges		
<b>5. Brief Description of Administrative Expense Claim (attach any additional information):</b> <u>for Respondent Superior 11 USC § 523(a)(6) willful and malicious injury by GMC to Creditor Mealer, et al. Trade libel, defamation... See attached</u>		<b>6. Credits: All payments made on this claim have been credited and deducted for the purpose of making this proof of claim.</b> <u>zero</u>
<b>7. Supporting Documents:</b> Attach copies of supporting document, such as promissory notes, contracts, security agreements, and evidence of perfection of liens <b>DO NOT SEND ORIGINAL DOCUMENTS</b> <u>I will send full documentation, plus letter of admission from GMC upon response.</u>		<b>8. This Administrative Proof of Claim:</b> <input checked="" type="checkbox"/> is the first filed proof of claim evidencing the claim asserted herein <input type="checkbox"/> supplements a proof of claim filed on or about _____ <input type="checkbox"/> replaces/supersedes a proof of claim filed on _____
<b>9. Date-Stamped Copy:</b> To receive an acknowledgement of the filing to your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim <u>See enclosed</u>		
Date <u>2/2/11</u>	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)  <u>John Lewis Mealer, President Mealer Companies LLC</u> <u>John Lewis Mealer</u>	<b>THIS SPACE IS FOR COURT USE ONLY</b>
Penalty for presenting fraudulent claim: Fine up to \$500,000 or imprisonment for up to 5 years, or both 18 U.S.C. §§ 152 and 3571		

[The body of the document contains extremely faint, illegible text, likely a table or list of items, spanning the majority of the page below the header.]

## INSTRUCTIONS FOR FILING ADMINISTRATIVE PROOF OF CLAIM

The instructions and definitions below are general explanations of the law. In particular cases or circumstances, there may be exceptions to these general rules.

### — DEFINITIONS —

#### **Administrative Bar Date**

The deadline for each person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, governmental entities, and trusts) to file a proof of claim for certain administrative expenses against the Debtor is (i) on or before February 14, 2011 at 5:00 p.m. (Eastern Time), with respect to administrative expenses arising between June 1, 2009 and January 31, 2011, and (ii) the date that is thirty (30) days after the Effective Date at 5:00 p.m. (Eastern Time), with respect to administrative expenses arising between February 1, 2011 and the Effective Date.

#### **Administrative Expense Claims**

The claims described in section 503 and 507 of title 11 of the United States Code. Among other things, these sections provide that certain types of claims are entitled to administrative expense priority, including, without limitation: (i) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the bankruptcy case, (ii) certain taxes and penalties related thereto, (iii) compensation and reimbursement of certain officers, (iv) the actual, necessary expenses incurred by (a) certain creditors, (b) a creditor, an indenture trustee, an equity security holder, or a committee representing any such entities, in making a substantial contribution to a debtor's chapter 11 case, (c) a custodian, (d) members of certain committees if incurred in the performance of the duties of such committees, and (v) compensation for services rendered by an indenture trustee.

#### **Administrative Proof of Claim**

A form filed with the clerk of the bankruptcy court where the bankruptcy case was filed, to tell the bankruptcy court how much the Debtor owes an Administrative Expense Creditor for Administrative Expense Claims.

#### **Debtors**

The Debtors in these cases are (i) Motors Liquidation Company, (ii) MLCS, LLC (f/k/a Saturn, LLC), (iii) MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation), (iv) MLC of Harlem, Inc. (f/k/a Chevrolet-Saturn of Harlem, Inc.), (v) Remediation and Liability Management Company, Inc., and (vi) Environmental Corporate Remediation Company, Inc.

#### **Effective Date**

The Effective Date is the business day on or after the confirmation date of the Debtors' Amended Joint Chapter 11 Plan, dated December 7, 2010. The Debtors shall file a notice of the Effective Date with the Bankruptcy Court and with the Securities and Exchange Commission.

## ITEMS TO BE COMPLETED ON ADMINISTRATIVE PROOF OF CLAIM FORM

#### **Name of Debtor and Case Number:**

Provide the name of the applicable Debtor and its corresponding case number.

#### **Information about Administrative Expense Creditor:**

Complete the section giving the name, address and telephone number of the Administrative Expense Creditor to whom the Debtor owes money or property, and the Debtor's account number, if any. If anyone else has already filed a proof of claim relating to this debt, if you never received notices from the bankruptcy court about this case, if your address differs from that to which the court sent notice, or if this proof of claim replaces or changes a proof of claim that was already filed, check the appropriate box on the form.

#### **1. Basis for Administrative Expense Claim:**

Check the type of debt for which the proof of claim is being filed. If the type of debt is not listed, check "Other" and briefly describe the type of debt. If you were an employee of the Debtors, fill in the last four digits of your social security number and the dates of work for which you were not paid.

#### **2. Date Debt Incurred:**

Fill in the date when the debt first was owed by the Debtor.

#### **3. Court Judgments:**

If you have a court judgment for this debt, state the date the court entered the judgment.

#### **4. Total Amount of Administrative Expense Claim:**

Fill in the amount of the entire claim. If interest or other charges in addition to the principal amount of the claim are included, check the appropriate place on the form and attach an itemization of the interest and charges.

#### **5. Brief Description of Administrative Expense Claim**

#### **6. Credits:**

By signing this Administrative Proof of Claim, you are stating under oath that in calculating the amount of your Administrative Expense Claim you have given the Debtor credit for all payments received from the Debtor.

#### **7. Supporting Documents:**

You must attach to this proof of claim form copies of documents that show the Debtor owes the debt claimed or, if the documents are too lengthy, a summary of those documents. If documents are not available, you must attach an explanation of why they are not available.

All Administrative Proofs of Claim must be **received on or before the Administrative Bar Date**, at the following address (whichever is applicable):

If by overnight courier or hand delivery to

The Garden City Group, Inc.  
Attn: Motors Liquidation Company Claims Processing  
5151 Blazer Parkway, Suite A  
Dublin, Ohio 43017

If by first-class mail, to

The Garden City Group, Inc.  
Attn: Motors Liquidation Company Claims Processing  
P.O. Box 9386  
Dublin, Ohio 43017-4286

Or if by hand delivery to

United States Bankruptcy Court, S D N Y  
One Bowling Green  
Room 534  
New York, New York 10004

Please be advised that Administrative Proofs of Claim may not be delivered by facsimile, telecopy transmission, or electronic mail transmission. Administrative Proofs of Claim shall be considered timely filed only if actually received by the Debtors' claims agent, The Garden City Group, Inc., or by the Court on or before the Administrative Bar Date.

1. The first of the two main parts of the report is a description of the

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John L. Mealer  
6333 Gardenia Lane  
Show Low, Arizona 85901  
928-532-8191

jlmealer@mealercompanies.com

http://www.mealercompanies.com

A registered Arizona based alternative fuel automaker and the designer of  
"BLATT-SODA" a non-plant based bio-fuel

**ADMINISTRATIVE PROOF OF CLAIM # 70107022 additional details,**  
*Reference Claim Document Items: #5 and #7 as needed.*

General Motors Corporation engineering employee, Mr. Kris J. Kordella under respondeat superior culpability, visited plaintiff's professional and funding growth oriented website using a GM computer and IP address 198.208.251.24 from his GM office in or near (yet with the IP registered to GM in) Bloomfield Hills, MI., concurrently and with what appears to be the assistance and "goading" of both Mr. Joseph Burgel "[joe.burgel@gm.com](mailto:joe.burgel@gm.com)" using IP address 198.208.251.22 out of his GM place of work located in or near (yet with the IP registered to GM in) Farmington, MI. and Ms. Christy Garwood "[christy.garwood@gm.com](mailto:christy.garwood@gm.com)" using IP address 198.208.251.23 out of her GM place of work located in or near (yet with the IP registered to GM in) West Bloomfield, MI. on June 9<sup>th</sup>, 2009. Mr. Kordella signed on to this funding growth website as investor guru "MONEY01" and posted various injurious falsehoods about Mr. Mealer and the Mealer Automobile thus unlawfully destroying growth funding and the 'rival' business of Mealer Companies LLC.

These incidents and postings of injurious falsehoods in a malicious manner (admitted by Mr. Kordella), caused John L. Mealer to lose prospective funding to the tune of \$200,000,000. AND Pre-Manufacturing prospective Sales which were subject to the prospective funding under discussion between Mr. Mealer and Mr. Mealer's registered Arizona based 'alternative fuel powered automaker and alternative fuel design' company's (*Mealer Companies LLC*) prospective investors, the the tune of \$30,000,000. in automobiles and related vehicles.

Mr. Kordella's malicious public posting of the injurious falsehoods on Mr. Mealer's funding

[illegible]

10-10-68  
10-10-68

1. The first part of the document is a list of names and dates, which appears to be a record of some kind. The names are written in a cursive script, and the dates are in a more formal, printed style. The list is organized into two columns, with names on the left and dates on the right. The names are: "John A. Smith", "John B. Smith", "John C. Smith", "John D. Smith", "John E. Smith", "John F. Smith", "John G. Smith", "John H. Smith", "John I. Smith", "John J. Smith", "John K. Smith", "John L. Smith", "John M. Smith", "John N. Smith", "John O. Smith", "John P. Smith", "John Q. Smith", "John R. Smith", "John S. Smith", "John T. Smith", "John U. Smith", "John V. Smith", "John W. Smith", "John X. Smith", "John Y. Smith", "John Z. Smith". The dates are: "1870", "1871", "1872", "1873", "1874", "1875", "1876", "1877", "1878", "1879", "1880", "1881", "1882", "1883", "1884", "1885", "1886", "1887", "1888", "1889", "1890", "1891", "1892", "1893", "1894", "1895", "1896", "1897", "1898", "1899", "1900".

1. The first group of patients, consisting of 10 cases, was treated with the following regimen: 1.0 g of penicillin G (aqueous suspension) intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V (aqueous suspension) orally every 6 hours for 10 days. The second group, consisting of 10 cases, was treated with 1.0 g of penicillin G intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V orally every 6 hours for 10 days. The third group, consisting of 10 cases, was treated with 1.0 g of penicillin G intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V orally every 6 hours for 10 days. The fourth group, consisting of 10 cases, was treated with 1.0 g of penicillin G intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V orally every 6 hours for 10 days. The fifth group, consisting of 10 cases, was treated with 1.0 g of penicillin G intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V orally every 6 hours for 10 days. The sixth group, consisting of 10 cases, was treated with 1.0 g of penicillin G intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V orally every 6 hours for 10 days. The seventh group, consisting of 10 cases, was treated with 1.0 g of penicillin G intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V orally every 6 hours for 10 days. The eighth group, consisting of 10 cases, was treated with 1.0 g of penicillin G intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V orally every 6 hours for 10 days. The ninth group, consisting of 10 cases, was treated with 1.0 g of penicillin G intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V orally every 6 hours for 10 days. The tenth group, consisting of 10 cases, was treated with 1.0 g of penicillin G intramuscularly every 4 hours for 10 days, followed by 1.0 g of penicillin V orally every 6 hours for 10 days.



growth expansion website on June 9<sup>th</sup>, 2009 were sent out immediately to prospective investors and customers via RSS feed, and Mr. Kordella followed up through GM's Computers, while at work with additional injurious falsehood and direct EMAILS to these prospective customers and investors.

These claims by Mr. Mealer are allowed pursuant to the following bankruptcy laws and further verified by numerous interstate commerce laws such as those found in USC Title 15 under the Sherman Act and basic *published* willful and malicious defamation of character/trade libel, anti-competitive violations, including Intentional Interference With Mr. Mealer's Prospective Advantage.

Mr. Kordella has admitted such an incident and has refused a public apology as has "GMC" also refused a corporate apology. The injuries are perpetuated and through a simple public, corporate apology, the perpetuation of these injurious falsehoods may end, but the damage has been done and continues to progress to this very day.

**11 USC § 503(a)(1)(A),(3)(A)(3)** whereby (a) An entity may timely file a request for payment of an administrative expense, or may tardily file such request if permitted by the court for cause. (b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under Section 502(f) of this title including-- (1)(A) the actual, necessary costs and expenses of preserving the estate including-- (3) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (4) of this subsection, incurred by-- (A) a creditor that files a petition under section 303 of this title; (B) a creditor that recovers, after the court's approval, for the benefit of the estate any property transferred or concealed by the debtor; (C) a creditor in connection with the prosecution of a criminal offense relating to the case or to the business or property of the debtor.

**11 USC § 101(10)(A)(B):** whereby "(10)" The term "creditor" means-- (A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor; (B) entity that has a claim against the estate of a kind specified in section 348(d), 502(f), 502(g), 502(h) or 502(I) of this section.

**348 (d)** A claim against the estate or the debtor that arises after the order for relief but before conversion in a case ...

In addition to this obvious legal standard (the law), plaintiff relies on exemption to "MLC" f/k/a GM (old) with **EXEMPTION TO DISCHARGE 11 USC § 523(a)(6) "for willful and malicious injury by the debtor to another entity or to the property of another entity."**

Date: February 2<sup>nd</sup>, 2011



John Lewis Mealer



Mexico  
6333 Gardenia Lane  
Shawlow, Arizona  
85901

RETURN RECEIPT  
REQUESTED

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™



7009 2820 0003 4820 1275

Hand delivered by Registered Mail



U.S. POSTAGE  
PAID  
SHOWLOW, AZ  
85901  
FEB 03, 11  
AMOUNT

\$5.71

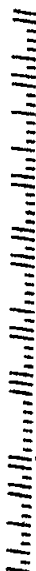
00076838-02

1000

43017

The Garden City Group, Inc.  
Attn: Motors Liquidation Company  
Claims Processing

5151 Blazer Parkway, Suite A  
Dublin, Ohio 43017



## **EXHIBIT “B”**

To JL, What a funny guy ..... (a note from GM's Senior Engineering Department) :

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To JL, What a funny guy ..... (a note from GM s Senior Engineering Department) :

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Jun

9

## **To JL, What a funny guy ..... (a note from GM s Senior Engineering Department)**

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**Why thanks for the interest Mr. Kris Kordella!**  
*(see notes from GM s Kris Kordella in blue below)...*

I didn't think GM would be sending over the SENIOR ENGINEERING staff to harrass and libel me just yet.  
As far as Obama appointing Mr. Whitacre as new chairman and head of the the NEW GM, the actual media at one time reported on the donations to Obama's campaign by the EX-AT&T CEO Edward Whitacre.

*Mr. Kordella, since you have wholly failed General Motors in product design and as the world is witness, you have very little to stand on as far as attacking me. Since you are a real designer of real automobiles, and by suggestion, these real automobiles are viable under your new god-like leader s vision... where are they now? ... Except maybe on the chopping block awaiting their dismissal as a viable automobile?*

At least Mr. Wagoner recognized the need for your department to design better vehicles and has stated so in a variety of reports and interviews. You, of all people, should realize that limiting factors of re-tooling and the UAW constraints have bound your design concepts... If indeed, you have had any new designs in the recent years.

***Or was that Saturn?***

Regardless of how you feel about me and my honest comments on AUTOMOTIVE NEWS about Edward Whitaker's payback appointment from President Obama, I wish you success.

When Government Motors fails just like General Motors has already failed, perhaps we can put you to work at Mealer Companies, but we will need to adjust your Senior Engineering status just a bit.

JL Mealer

To JL, What a funny guy ..... (a note from GM's Senior Engineering Department):

2/18/11 7:21 AM

**A SPECIAL NOTE FROM GM's HEAD DESIGN GUY,**

*TO JL, What a funny guy"  
Re: Your senseless blog to the Automotive News article on Whitacre. Mealer Automobiles?  
America's next major automobile company?? HAH!!!!!!!!!!!!!!!!!!!!!! You're a legend in your own  
head. And notice I didn't say mind because it's obvious you don't have one. Anyway I wish you  
ALL the worst the world can give to such a self-serving pathetic MORON.*

*Good riddance clown. Sincerely, Kris K (a real engineer of real automobiles)"*

## Comments

### 12 Responses to "To JL, What a funny guy" ..... (a note from GM's Senior Engineering Department)"

1. JLM on June 9th, 2009 12:33 PM

Is this what I have to look forward to?  
JL Mealer

2. JL Mealer on June 10th, 2009 9:34 PM

<http://www.autonews.com/apps/pbcs.dll/article?AID=/20090609/ANA02/906099989/1178>

3. Stephanie on June 13th, 2009 4:54 PM

First and foremost, what a very sad and upset man this must be. How very sad. Secondly, the truth will always win. Not to mention a good lawyer. So with that said, keep doing the right thing and never stoop to their level. Maybe that's why they are in the toilet. You will be in my prayers.

4. JLM on June 13th, 2009 5:01 PM

Thank you Stephanie.

The deal is, this is not just Joe Blow with his opinion.. but the Senior Engineer from GM!

He posted this live when I had this wordpress site open for posts and it sat there for days until I added my comments.

For all I know, the investment group I have been courting read it and dropped me simply because this "real designer" as Kris Kordella claims just threw me to the "no mind" and "non-existent" status that today's investors are worried to tread.

We have some seriously good "Disruptive Technology" patents, we are registered as Automakers and Alternative Fuel providers, so... GM's Sr Engineer Kris Kordella has seriously libeled me and my company.

5. Christine on June 13th, 2009 7:54 PM

WOW is someone Jealous of Mealer Companies CEO I Love it you got under his skin Only the best will Survive and Mealer is all about what's best for the consumer and our planet its going to be the new wave of the Future and that moron is just hateful I see Mealer Companies going far I think you are brilliant and you think outside of the box unlike kris K who will soon be living in a box..

6. Shelly on June 13th, 2009 8:25 PM

To JL, What a funny guy ..... (a note from GM's Senior Engineering Department) :

2/18/11 7:21 AM

What a jerk! But fascinating that someone so important" would give you the time of day and yet imply that you've got nothing. It sounds like you've got a great plan and they don't want anyone sharing their spotlight. And that's just my humble opinion. It seems to me that any plan that can help the environment should be taken very seriously. For him to talk to you like he's some high school bully is ridiculous.

7. *Jennifer* on June 15th, 2009 9:49 AM

Imagine working for GM and being able to pretend, with a straight face, that you've been successful. They're currently a charity case, and as hardworking as their employees may be, they're currently charity cases, too. It's not out of love for their crappy vehicles that they've been given crutches, but concern for their employees. Well, when the NYSE finds the symbol GM" unfit to continue to be listed, they've officially failed. Wait, did that happen already? Yes, yes, it did. The nerve to call someone else a clown.

8. *JLM* on June 15th, 2009 4:44 PM

Finally,  
GM Sr. Engineer Kris Kordella allowed this final comment and we can mend fences. By the way, my attack of GM" was comments on autonews.com regarding the Obama administration's payback appointment of Ed Whitaker to a chairman position. Anyhow.. We are good to go and I wish GM and Mr. Kordella luck in all aspects.  
JL Mealer

Dear Mr. Mealer,  
Obviously you can see how I might get upset after your blog in the Automotive News. It was quite an attack on people like me who work in the trenches for this company every day and hope to continue to have a job once we get (hopefully) through all this bankruptcy. As you know, if things do not work out for GM, I will lose most of my pension, all medical benefits and on, and on. Basically a financial Armageddon for me and hundreds of my friends and family members that have relied on GM for the last 60 plus years. Not to mention the tens of thousands who've already lost their jobs.  
Needless to say you know that Detroit and it's suburbs, and for that matter all of Michigan, Ohio, Indiana and other Mid West states have been beaten up so badly in the press, by Congress, by most Americans that feel they're not affected by this automotive crisis, that we've developed thin skin. However, the bottom line is I shouldn't have resorted to the "knucklehead" name calling in my blog and inferring your auto company isn't legit, because I'm sure it is.  
Please consider this my apology for the aforementioned actions. Additionally, I wish you and your company great success in the future as any company that can help the United States get more GREEN is a noble company and should be commended for their work. Wishing you the best of luck in the future,

Kris J. Kordella

9. *Stephanie* on June 15th, 2009 5:22 PM

Hmmmm, well isn't that interesting. 1) I can see how someone might lash out if they were in his position. Of course he would lash out because he saw you have a future and pretty much knows he does not. I do wish him luck as well, because at this point that is what he will need.  
2) Although I understand (as my mother just lost her job of 37 years and has lost everything-she works for the school district. Same one for all those years) Mr. Kordella should have lashed out at the correct people and maybe he could have taken constructive action and gotten some good results.  
But alas, we are all still on planet earth, still human and FULL of emotion. I wish all of GM's employees the



To JL, What a funny guy ..... (a note from GM's Senior Engineering Department):

2/18/11 7:21 AM

best of luck in the future. As far as that goes, everyone that has lost their jobs, the same.  
Here's to Mealer!  
Looking forward to final product.

10. *Rod Glaze* on September 6th, 2009 10:09 PM

Oddly enough watching the Tucker movie once again, has brought me to this website. I have much to say about alot.....and alot to do about little. I am in favor of any or all who can absolutely pull the rug out from underneath the beauracratic shamble that has been created through the reduction of prersonal freedom. Return freedom to the individual, of choice, work, love, and lust and we have entrepenuers who hire better then the best, to prove the best still exist. Good Luck Mr. Mealer....I shall follow until someone is in the way then I shall seek to guide, until I am asked to lead, at which time I shall once again learn to follow. Look forward to personal contact, and knowing nothing wish to be your Abe Kratz“ Sincerely Rod

11. *JLM* on September 7th, 2009 9:28 PM

Thank you Rod.  
I am open to all advice on pushing this funding issue to completion.

12. *Troy Shelhart* on September 20th, 2009 3:03 AM

Sure sounds like a pipe dream to me, but then again thats what they said about putting a man on the moon. I will follow this story now that I know about it, and wish you the best of luck!

### Leave a Reply

Name (required)

Email Address(required)

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Submit Comment

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## **EXHIBIT “C”**

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Aug

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## **Opportunity with Mealer Companies LLC**

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Quite a few people have inquired about opportunity with Mealer Companies LLC.

Funding is not 100% yet, but as we get to that point we will need hundreds of people for immediate help within the company, plus the hundreds in the construction industry as well as thousands more in the companies related to our manufacturing and products. Why not play a part? It can't hurt to throw some info about yourself together, send it to us and discuss where you feel you can fit in.

We can use designers, drafting experts, get-it-done personnel, a basic, yet highly trainable labor staff for all aspects of automotive and electrical manufacturing, public relations, security, and a host of business people. Mealer Companies needs a nationwide automotive dealership network. In fact, we would like to sign up dealers as soon as possible. Spread the word... Many automotive dealers just lost their businesses or were cut by the new car czar and as the saying goes: *When one door closes, another door opens.*

**No... We won't give you an email address,** because we want only those types of thinking people who are capable of finding for themselves to offer their services. Those who will easily figure out how to contact Mealer Companies via email, or through the post or in youtube or any other social media outlet. *Figure it out... my name and my website URL combined as an email will get a direct message to me. Be prepared to move to Arizona...*

If you read through this brief wordpress site, you will see our plans for helping create more jobs across the USA and elsewhere in the world. Where do you fit in?

Whether it's a major long time player in our company or someone wishing to learn while they earn a great living and move on to a new and exciting company of their own, we've got a few (at least eight) ears to hear some of your ideas. Qualified investors and trainable employees are always welcome with Mealer Companies. As we expand our job training courses and help our well trained candidates seek their own niche in the world of (hopefully-USA-based) manufacturing or whatever well planned and precisely documented, worthwhile business venture they seek to fund... You will see an even greater opportunity for investment.

I'll add to this post later.

Opportunity with Mealer Companies LLC :

2/18/11 7:33 AM

JL MEALER

**The MEALER is about you, your family, your country and the choices you make.  
*Wherever you may live and whoever you may be.***

## Comments

### 19 Responses to "Opportunity with Mealer Companies LLC"

1. Rob Ginocchio on August 24th, 2009 8:59 PM

I just read some comments you've made on yahoo and investigated your website here. It takes guts to go out on a political limb in public as a businessman. I appreciate that and obviously share some of your views on topics of the day. If you ever need short samples of gear rod for engineering/prototyping and I've got the stock, let me know. I'll ship you what you need no charge if I've got it. Not sure if the use will be there, but over the years I've had a number of automotive parts manufacturers use my stock for one thing or another. Good Luck.

2. Calvin E. Camps on August 25th, 2009 6:50 AM

Dear Mr Mealer,

I work direct with Angel Investor we would have very high interest in investing in your green energy projects. Please contact Calvin CXXXX

Gainesville Florida

3. JLM on August 25th, 2009 2:53 PM

Thank you Rob.

The truth is the truth and I would not be able to face myself in the mirror if I wasn't trying to do what is right and honest.

I really don't know how so many politicians today can sleep at night when they know they are lying, cheating and outright destroying our nation.

I will take you up on that offer for materials... Even if we purchase it from you to keep you busy and with cash in the bank.

Opportunity with Mealer Companies LLC :

2/16/11 7:33 AM

JL Mealer

4. Fred Mars on August 25th, 2009 5:44 PM

I'd work for you tomorrow John. Your a good man with good ideas that will benefit humanity.

5. JLM on August 25th, 2009 9:04 PM

Thank you Fred Mars.... I wish we were in hiring mode right now (you'd have a great administrative job with us).

Your 'fixamerica' blog could be a major stepping stone for the future if only the majority of people would just pay attention to reality rather than TV and sports.

JL Mealer

6. Poly Endrasik Jr on September 5th, 2009 1:29 PM

Hi John, I liked your comment "But of course the schools and text books do exactly that" and am intrigued by your company / goals. I recently -early retired- from Chrysler after 26 years, starting with American Motors Corporation as prototype build tech. Lack of innovative spirit and politics is a primary reason I left when presented the opportunity, now I am trying my own hand at business. After AMC was bought by Chrysler, each year and new owner seemed to be less tolerant of innovators (I did work hard to implement the first video conferencing system which included integrated CAD sharing in 1991 a decade ahead of it's time and have tried to stay on edge of technology but it was tough).

Anyway, if I can be of assistance let me know, I didn't leave all my ideas with the OEM before I left!

Here's the link to my LinkedIn profile: <http://www.linkedin.com/in/polyendrasikjr>

Good luck and God bless!

7. Christa Linderer on September 8th, 2009 6:18 AM

John

I liked your comment to Fred Mars (Your 'fixamerica' blog could be a major stepping stone for the future if only the majority of people would just pay attention to reality rather than TV and sports.)

A few months ago, my husband and I decided to cancel our cable TV service and go with good quality Netflix movies every now and then. The propaganda on TV is a shame to any intelligent person.

I've been following some of your comments on Automotive News and I am sure I will find a way to get my resume to you. I'm a business person, analytical, supportive and getting things done. My previous employer, developing Hybrid technology for BMW, closed their office in MI and relocated to Germany.

Best of luck!

8. Kelly Blankenship on September 8th, 2009 3:40 PM

Very interesting company, I would be interested in participating in discussions specifically around compliance related issues and fair lending. As you know the Obama administration is going to be coming down hard on finance companies. They must be ready or they will be hit with fines and possible cease and desists.

9. Baltazar Pinon Neri on September 9th, 2009 2:10 PM

Opportunity with Mealer Companies LLC :

2/18/11 7:33 AM

Dear John: Your company is very interesant; Im available if you need anything from us. Also I invite you to invest in Juarez Mexico with all the competitive advantages. Ciudad Juarez have more than 350 international companies established included automotive (parts) manufacturing companies. If you want to know more; I can send you information.

You can to explore new opportunities.

My Consultor Group is new company too. 90% of my business are with US companies.

I understand you.

Thanks!! Good luck; God Bless you.

Baltazar Pinon Neri(Linked in Auto OEM)

Director Consultor

LION International Consultors Group

10. *Idris Muhammad* on September 9th, 2009 3:43 PM

In response to JL Mealer's posting on Linked-In, I am interested to apply. I am mechanical engineer with MBA, CQE and extensive experience in supplier quality and plant quality management. Please advise how to send my resume to you. I am open for salary and relocation.

Thanks,

Idris Muhammad

[idrishaniff@hotmail.com](mailto:idrishaniff@hotmail.com))

810-695-4166

11. *Martin Jennings* on September 22nd, 2009 5:51 AM

JL,

I applaud you for your fortitude. I happen to be one of those who agree with your political premise, and admire you for your willingness to stand, alone if necessary, to 1) prove the naysayers wrong, 2) produce something that brings back America to what it once was and can be again, 3) never forgetting the objective: safety, economy, and style.

I'm sure you've seen this before, but if not, Google "The Power of Leadership"...it will motivate, empower and reflect what Mealer is and will be as well as what it must go through!!

My congratulations. Unfortunately, I am the least mechanically inclined individual you'll ever meet, however, I excel in public relations and persuading even the most steadfast opponents to understand reason and benefits. When your operation is ready for exposure and need someone to communicate with ALL stakeholders, I'd be honored to assist you.

12. *Scott Palmer* on September 30th, 2009 11:01 AM

JL Mealer

Mealer Companies LLC

<http://mealercompanies.com>

America's Next Major Automaker

& 100% Self-Regenerative-Fueled

High Capacity Electricity Producing Device MFG

Mr. Mealer, et al,

Opportunity with Mealer Companies LLC :

2/18/11 7:33 AM

We had the chance to chat recently on The Huffington Post and I thought I'd get my resume to you in advance of your funding approval.

I have been an Entrepreneur of a photography studio for some time now, however due to cutbacks and the economy, I feel it is time for me to utilize my talents in a more productive and profitable manner. I am an older adult with years of life experience and knowledge of the daily machinations of managing a business. These life skills allow me to be innovative, reliable and perhaps more dedicated than someone just coming to the workforce.

I feel this position is a good fit for me, having been in my own business for a time. I believe I have many talents and benefits to offer you and my experience will help me be an asset to your company in a very short time.

I am comfortable working independently or as part of a team and am highly motivated. I have extensive experience with the needs of clientele and am able to communicate effectively. Other skills I can bring to your organization include: Management/Sales practices, Creative Thinking, and Organization, Research and extensive Computer skills, as well as Aggressive Media and Writing potential. I believe you will find my background and experience applicable to some of your needs .

I am geographically mobile and am willing to begin employment immediately. I would appreciate a personal interview at your earliest convenience. Please contact me at the address and phone number below. I am eager to further discuss my qualifications and view your facility.

Thank you for your consideration. I look forward to hearing from you soon.

Sincerely,

Scott V. Palmer  
2888 Hwy 43 South  
Loretto, TN. 38469  
931.852.2271 (home)  
931.244.0750 (cell)

-----

Scott V. Palmer  
2888 Hwy 43 South  
Loretto, TN. 38469  
931.852.2271 (home)  
931.244.0750 (cell)

#### EMPLOYMENT HISTORY

Media Consultant/Photographer/Studio Manager

AngelPalm Studios, Loretto, TN Apr. 05 to Apr. Present

Overseeing all aspects of media management publishing/writing solutions and innovative implementation.  
Photographer/Videographer All digital studio solutions. Utilized Adobe CS3 suite for digital image manipulation and correction, Portrait Professional, Adobe Lightroom 2  
Daily management of studio/office, support staff/assistants and crew to include contractors and sub-contract services.



Opportunity with Mealer Companies LLC :

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Built strong client base with residual contact. Built company value with smart purchasing.

AngelPalm Studios

Loretto, TN. 38469

931.852.2271 (home)

931.244.0750 (cell)

Media Content Manager

Writer's Research Guild Apr. 03 to Apr. 05

Provided Internet content and solutions for a subsidiary of Google, DEMAND Media and eHow.com.

Wrote high value SEO content and completed research for web-based content solutions providing users with solutions and information on various topics and issues.

Writers Research Group, LLC

PO Box 891568

Oklahoma City, OK 73189-1568

Phone: 405-681-5074

Network Consultant

Palmer Network Consulting, Ozark, AL Apr. 00 to Apr. 03

Overseeing all aspects of network management solutions and implementation.

Saved company over \$200k in second year by innovation and strong product research.

Network Manager

Thomson Newspapers Corporation, Dothan, AL Apr. 99 Apr. 00

Major Responsibilities:

Began as IT support technician handling hardware/software trouble-shooting, installation, and maintenance of corporate network systems.

Implementation, installation and maintenance of \$1.8 million Windows NT network involving a Windows/Macintosh heterogeneous environment encompassing five local newspapers and over 245 workstations, 12 Windows NT servers, 14 Macintosh database servers and 1 AP wire service station.

Maintained a Microsoft Exchange Intranet/Internet mail server with over 300 clients. WAN/LAN/VPN and wireless solution experience.

Software utilized: Adobe Photoshop, Adobe Acrobat, Quark Xpress 6, PC Anywhere, All Norton Utilities and Antivirus products, Timbuktu Pro, Baseview software, NewsEdit Pro, AppleShare IP, Windows NT 5, Mac OS X and above, Windows 98/00/XP SP2/Vista. Some experience with New Media and Internet applications.

Computer Technician

Thomson Newspapers Corporation, Dothan, AL Jan. 99 to Apr. 99

Senior Graphics Illustrator

Thomson Newspapers Corporation, Dothan, AL Oct. 98 to Jan. 99

Senior Writer/Graphics Illustrator

Thrifty Nickel Want Ads, Dothan, AL Feb. 97 to Oct. 98

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Create and write all ads and designs for customers utilizing Corel Suite, Pagemaker, Quark Express, Adobe Photoshop/ Illustrator in both Mac and PC formats. Perform strip/layout and meet all deadlines. All advertisement copywriting. Experienced in hardware and software troubleshooting and design.

Scott V. Palmer

Page 2

Senior Newspaper Reporter/Photographer

Apalachicola Times, Apalachicola, FL Jan 96 to Jan 97

Performed all newsgathering, feature writing and photography for weekly newspaper. Did strip/layout and production of headlines and masts utilizing Aldus Pagemaker and Quark Express/Photoshop applications for Mac and PC platforms.

Senior Issues Researcher

Florida State Chamber of Commerce, St. Petersburg, FL Aug. 95 to Dec. 95

Developed reports and written scripts/copy dealing with new Florida legislative issues. Assisted manager in soliciting business for community support for the Chamber.

Senior Account Liaison

Raymond James and Associates, St. Petersburg, FL Apr. 90 to Aug. 95

Portfolio Representative to clients and the Account Executives and Brokers. Executed securities trading over New York Stock Exchange via IBM trading software. Acted as Account Manager for 24 employees.

#### ADDITIONAL PROFESSIONAL SKILLS

##### Journalism

Word Processing, proofreading, office equipment operation, script, copy and feature writing, headlines, deadlines, accuracy in reporting and research, AR/AP, broadcast experience. Proficient in all aspects of digital photography and design. Proficient in Adobe Photoshop CS3, all Word product suites, and most publishing software. Talented web researcher and solution provider.

##### Radio:

On-Air talent and producer for WFSU and FAMU classical music block.

On-Air talent and producer for 102.5 St. Petersburg, FL. contemporary and classical rock request hour.

##### References:

Available on request

13. *Joe Plajstek* on October 9th, 2009 2:55 PM

Dear Mr. Mealer

Like to send you my resume, you will see that my background/experience in marketing and sales for a luxury

Opportunity with Mealer Companies LLC :

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automaker is a perfect fit for your new product. You have what it takes to be successful, passion.

J.

14. *Wil Thomas* on November 4th, 2009 12:44 PM

John,

Before you go out and sign up a host of traditional auto-dealers, I'd like to run an idea I've been mulling over by you. See, I am of the opinion that the traditional dealership model used by, well everyone in the auto industry, is yesterdays' news. It is old hat.

This is the 21st century. the age of Google, Facebook & Twitter. Isn't there a better way to bring world-class transportation to the masses?

I'm not a marketing genius. Just a guy with an idea.

Wil

15. *Chris G. Deschacht* on November 5th, 2009 12:10 PM

Dear Mr. Mealer,

After reading your recent response to a post on azcentral.com expressing your wishes to remain in Arizona I would like to offer our services. I am an Arizona Commercial REALTOR and can assist you with site locator service as well as site acquisition (or any other real estate services for that matter).

As real estate is my first love, I am partial to it. However, should the opportunity ever present itself to work for a company with innovative ideas like Mealer American Motors I would have to consider it long and hard.

Either way, I wish you the best in any of your current and future endeavours and will be following your progress closely.

Respectfully yours,

Chris G. Deschacht  
Bullhead City, Arizona

16. *Joe Barr* on January 3rd, 2010 12:54 PM

Hello JL,

In the past five years I've been involved in securing funding for revolutionary CVT's (continuously Variable Transmissions for both Bicycles and scooters). Get used to sleeping only a few hours each night and fighting those traditional forces who will throw doubt in your path with each step you take. However, I see the light in your future if you just have the determination to not be pushed back by those who have it as their agenda for you to give up.

Joe

[joebarr100@msn.com](mailto:joebarr100@msn.com)

17. *Dann Therrien* on January 7th, 2010 1:19 PM

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Let me know where to send my resume... This is soooo exciting!

18. steven odell on February 12th, 2011 3:44 PM

JL, I used to work for an R&D firm and loved wearing many different hats (the technology worked, but the Principals were thieves, hence the subsequent SEC involvment). Let me know when you can use a researcher, designer, draftsman, copy writer, PR man, welder, fabricator and painter, okay? I will even take my turn cooking in the lunchroom. ;>)

Steven O.

19. JLM on February 12th, 2011 4:56 PM

Most certainly Steven. Once I get through the lawsuit or gather funding, I will contact you. Send a resume to me using my name (no spaces) AT yahoo.

JL Mealer

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Mealer Updates, Funding...

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## Mealer Updates, Funding...

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Mealer Companies LLC ... Okay, I edited this post because after reading it, I appeared to be whining (and made major typos of which I will become famous). It appears we are under negotiations for funding and if all goes well, you will see our Bridge Vehicle hitting the market in the next 18 months.

Let's fast forward a couple of years and say Mealer Companies goes into full production tomorrow. An average American family (we will call the Crosbys) begins the purchase process for a \$39,000 MEALER FV Series and takes the time to visit a dealership and get the home breaker box retrofitting details from one of our dealers whether franchised or directly owned by our company, PRIOR to purchasing or ordering their new MEALER. The Crosbys want to take full advantage of the MEALER ability to generate power for their condo. They hire a local electrician who visits their home and installs a connector and smaller breaker box wherever the MEALER will be parked at night. Cost is roughly \$300 for the electrician and \$200 for the hardware and extension cable which links to the parking area for the MEALER. This is due to the fact, the Crosbys live in a condo and the garage has already been set up for grandma to live in since her Medicaid was cut off and she must now pay her medical coverage with her Social Security check... So, no garage to park the car.

The Crosbys choose an SUV sized, 7-seating MEALER FV (branded name?) and drive it home. All is well and although the MEALER charges their condo, plus the up-link power cabled connection to three of their four-plex neighbors while also supplying the Internet via the MEALER, they realize that with their newly acquired energy bill savings, they want to travel across country to Disneyland and hit Knotts Berry Farm (which are then both owned by China)... Hmmmm what to do? The neighbors will be without power since they all had gotten together and voted to remove themselves from the electrical power controlled by the Smart Grid System and carefully watched over by *Electra-Czar*...

*Easy solutions are what we do.*

*The Crosbys put a call into a Mealer Companies associate business and they do a quick-lease on a portable MEALER charge pack' (name?) that maintains, controls and distributes a storage of energy which is converted to electricity which quietly and efficiently provides a back-up power source for just such occasions. This of course, was offered as part of a MEALER extended service plan and the cost is covered. This is also an option for those families who have not yet purchased two MEALER Automobiles, one for home idle and*

Mealer Updates, Funding... :

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*the other for the road...*

*Or one for each spouse.*

Note: Without the added expense of an electric bill or fuel charges, one spouse can actually stay home and raise the children in a decent environment where they can be loved and cared for... Grandma, Grandpa or elderly mom and dad no longer need to freeze to death in the frigid winters because they failed to pay -NO Common Sense Edison Electric Co- winter heating bills.

Back to the scenario:

The Crosbies return home and everyone is happy

That's how I see it. Sure, I am brutally honest (even though I seriously edited my original note before posting it), and sure some people might feel offended by pointing out the obvious factors involved in getting the MEALER to market along with their feeling of intense disagreement with my vision of 2 years from now. You need to call a 'circle', a 'circle' when dealing with politics and this circle we are dealing with now is certainly not completely round and it only wants to roll over you.

*[Notice the extreme wit with the 'circle' concept? I have hundreds of these snappy, witty, analogous streams of thought just floating around my mind... Lucky us, eh?]*

Fear not America Let's see where this goes this fall.

JL Mealer

Mealer Companies LLC

<http://mealercompanies.com>

America's Next Major Automaker

& 100% Self-Regenerative-Fueled

High Capacity Electric Producing Device MFG

## Comments

### 6 Responses to Mealer Updates, Funding..."

1. *john e madden III* on October 8th, 2009 6:26 PM

i want to learn more about your -ear-....or -ears-; i want to to see u on glenn beck's show soon and i want you -vetted- by glenn or his staff- i like what ive read so far- please ask glenn for a radio or tv interview soon. thanks john M

2. *JLM* on October 8th, 2009 9:11 PM



Mealer Updates, Funding...

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John,

I would love to be on Beck's show. However, I believe he and his producer's and 'Stu' are refusing to talk to me because they can't get past my vehicle as being what they call 'green'. They must believe I am one of the Al Gore followers or anything of the sort, but instead pro-American.

This is about Americans and our jobs and the country's future for our children. I am against the greenie mentality!

Send a note to Beck and suggest.. have your friends do the same. I won't be selling cars, but promoting everything you read about me. They can vet me, but I warn you, I have not played well with others" all of my life and my past does not look choir boy clean.

JL MEALER

3. Dr. Gurminder Singh on October 21st, 2009 12:27 PM

I am the founder of the Institute and GreenEdge Advisors. Co-author the Green Car Reports and GreenPapers of Green Infrastructures.

Would very much like to undertake due diligence and provide strategic assistance to capitalize your company. If this is of interest, email me.

4. Manfred Knobel on October 25th, 2009 6:10 AM

what an interesting concept! Congrats to the idea innovation. How much power do you think your stable of cars could generate as supplementary electrical power to an existing residence? Will you be using existing PV technology or are you holding out for the concentrated nano panels?  
Again, my compliments....what a ride

5. JLM on October 26th, 2009 9:32 AM

Manfred,

The MEALER will provide enough electrical output to run an arc welder while powering lights at the same time. Or rather, an entire house with all electricity. I assume that is what you are asking.

Funding is looking definite for this year.

JL Mealer

6. K.J.VIGUE,II on October 30th, 2009 7:35 AM

Very interested in your company's services. Please feel free to call me at 202-528-9285!!!

Kind regards,

K.J.

K.J. Vigue,II, Founder

CEO & Chairman of the Board of Trustees

Wonderful Angels' Academy

P.O. Box 77711

Washington, DC 20013-7711

wonderfulangelsacademy.org

Mealer Updates, Funding... :

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[k.j.vigue@wonderfulangelsacademy.org](mailto:k.j.vigue@wonderfulangelsacademy.org)  
Private Email: [pctabec7310866@aol.com](mailto:pctabec7310866@aol.com)  
301-218-4374  
24 HOUR CELL LINE: ( 202-528-9285 )

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The October Stretch :

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**Oct**

**24**

## **The October Stretch**

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October 2009 in regards to Mealer Companies brings us to a point where we hope to be moving into our initial corporate offices this winter as we expect to begin making major advances to bringing our product to manufacturing and to market by fall 2010. These are exciting times and I hope you will follow our progress. As we move our many engineers, techs and development personnel into the area, the enthusiasm will lead to constant updates and they should keep you up the speed.

JL Mealer

## **Comments**

### **One Response to "The October Stretch"**

1. *JL Mealer* on February 10th, 2011 11:00 AM

The enthusiasm working yet?

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**Jan**

**1**

## **1 January 2010**

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Mealer Companies LLC has a quite a bit going for the company this year. Funding just around the corner and a wide open world to help heal. The MEALER products are not the issue and manufacturing along with product sales are not going to be a problem... It s the red tape and road blocks that may be put down by the power brokers and greedy outsiders. When reality comes around, we know that nothing will stand in our way.

Heal" meaning creating a sliver of real hope for new jobs and new found wealth for those of us who are struggling through a bad past year. Mealer Companies is just the tip of the iceberg on a new stretch of American Entrepreneurs. In fact the entire global world of private and individual businesses is about to rally around and create the jobs that not only the USA needs, but the world s populous demands. No one who is worth anything wants to stay on welfare or take a free ride through life. It s all about the job, career and lifestyles that we choose for ourselves and for our families.

I expect to have a few new prototype sketches of the MEALER on this Word Press site within the next 45-60 days.

JL Mealer

**The MEALER is about you, your family, your country and the choices you make, the roads you follow...  
*Wherever you may live and whoever you may be.***

## **Comments**

1 January 2010 :

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## 2 Responses to 1 January 2010“

### 1. *John Susko* on January 3rd, 2010 2:11 PM

The healing you wrote about is long over due. I look forward to seeing the prototype sketches and to contributing to the realization of this awesome dream how ever I can as soon as possible.

Power brokers, roadblocks, greedy outsiders, and nay-sayers be damned!

### 2. *Wilson Thomas* on January 6th, 2010 5:17 PM

Good to see an update! I am excited for the future! Though 2009 was difficult, it is through adversity that we become stronger and more determined.

Keep fighting and we will win!

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## **EXHIBIT “G”**

\* VFTT

*Complaint*

*original*

John Lewis Mealer, Pro Per  
6333 Gardenia Lane  
Show Low, Arizona 85901  
[jhmealer@mealercompanies.com](mailto:jhmealer@mealercompanies.com)

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U.S. BANKRUPTCY  
DISTRICT OF ARIZONA

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF ARIZONA – PHOENIX DIVISION**

In re

Case No.: 2:09-BK-24899-RTB

JOHN LEWIS MEALER,  
Debtor(s)

Chapter 7

**ADVERSARY COMPLAINT**

GMAC MORTGAGE LLC, GMACfs,  
GENERAL MOTORS CORP., GENERAL  
MOTORS CO., MOTORS LIQUIDATION  
CO., RESIDENTIAL CAPITAL LLC, KRIS J  
KORDELLA, CHRISTY GARWOOD, et al.

*2:10-ap-503*

(Creditor) Defendants,

**ENJOINED MOTION FOR**

vs.

**EVIDENTIARY HEARING CONCERNING**

JOHN LEWIS MEALER, (wife, sons, et al)  
(Debtor's/Injured)

**GROSS CREDITOR MISCONDUCT**

and ~~LAWRENCE J. WARFIELD, Chapter 7~~  
Trustee,

Plaintiffs,

**I. JURISDICTION AND VENUE**

Comes Now the Plaintiff, In Pro Per, by special appearance; Motioning adversary proceeding pursuant 11 USC § 101 et seq., FRBP Part I, Rule 1018, Part VII Adversary Proceedings, Rules 7001, 7056, 9014, Part III, IX, "General Provisions," 11 USC Appendix Rule 9027, 9029, F.R.Civ.P.8, 3 F.R.Civ.P., 12 F.R.Civ.P.(g)(1), Core Proceeding pursuant to 28 U.S.C § 1334(a)(b), 28 USC § 157(b)(2)(B)(C)(F)(G)(H)(5)(c)(1)(2)(1) et al., 11 USC § 101(5)(B), § 303(a)(b)(2)(d)(f)(g)(h)(1)(1)(i), § 524(a)(2), 547(b) and 362(b)(20)(21) subsection (a),

1 (d)4, 11 U.S.C. § 523(a)(4)(a)(6) [per the Equal protection Clause], et al., Therefore, this US  
2 Arizona District Bankruptcy Court exercises jurisdiction on these matters.

3 **II. CLAIM SUMMARY**

4 I, Plaintiff(s) hereby produce, verify and submit this CHAPTER 7 ADVERSARY  
5 COMPLAINT \_\_\_\_\_ enjoined MOTION FOR EVIDENTIARY HEARING  
6 CONCERNING GROSS CREDITOR MISCONDUCT against the Defendants listed above: This  
7 enjoined Complaint/Motion blocks, denies, argues Creditor Defendants' motion For Relief From  
8 Automatic Stay and seeks redress to initiate settlement for Defendants' flagrant, egregious,  
9 reprehensible prima facie torts and ongoing irreparable injuries fraudulently committed upon  
10 Plaintiff creating Breach of Fiduciary Duty, Breach of Contract, fraudulent activities and other  
11 injuries caused by Defendants' unrestrained, denigrating actions which intentionally instilled  
12 debtor's financial condition prior to and during this bankruptcy case under unusual and exigent  
13 circumstances, yet not beyond the scope of state and federal bankruptcy law, contract law,  
14 common law, jurisprudence, and judicial rule. A lift of automatic stay in this case will result in  
15 immediate and irreparable injury, ad infinitum, loss and damage to Plaintiffs in what appears  
16 would be thwarting due process, subservient to law and will defeat the ends of justice. Plaintiff  
17 does not enter this legal battle by choice, but *conditio sine qua non* justice.

18 **III. DEFENDANTS' LACK OF AUTHORITY and PRECEDENCE**

19 Defendants' as Mortgage Holder/Creditor has no remedy or precedence to demand relief  
20 from the automatic stay per their original motion, which allows forum for this Plaintiff's  
21 adversary complaint. Defendant's original request and Motion to Lift Automatic Stay is without  
22 merit as Creditor/Movant/Defendants' have not made an effort to provide legal cause to move  
23 their claim to another court. The contractual evidence provided by Defendant acting ultra vires  
24  
25

1 against this Debtor by and through this instant case aberrant modus operandi further proves  
2 Plaintiff's case.

3 Pursuant to 11 USC § 362(d)(1) of the Bankruptcy Code, the automatic stay may only be  
4 lifted to permit a litigation to go forward in another court upon an initial showing of  
5 "cause" by the party seeking relief from the stay. *Sonnax Indus., Inc. v. Tri Component*  
*Prods. Corp. (In re Sonnax Indus., Inc)*, 907 F. 2d 1280, 1285 (2d Cir. 1990); In re New  
York Med Grp., P.C., 265 B.R. 408, 413 (Bankr. S.D.N.Y.2001).1

6 **IV. CREDITORS BREACH OF DUTY TO PROTECT DEBTOR**

7 Pursuant to laws of contract both parties have a mutual right to remedy. Defendants' who  
8 are also an FDIC approved banking institution and mortgage holder of the Plaintiffs have  
9 committed what appears to be collisional gross negligence in malicious assaults upon this  
10 Plaintiff while under a fiduciary duty to protect the Plaintiff, activity leaning precariously close  
11 to banking fraud. While it is understood that a debtor maintain insurance and generally protects  
12 creditor interests in lien property, it is common practice for the creditor to provide an effort of  
13 protection for debtor and exercise skill, care and diligence when acting on behalf of the  
14 debtor/client. Shared fiduciary responsibility is evident in this respect. Reciprocity certainly  
15 plays a part in the balance of rights and obligations of the parties, which may not be disturbed to  
16 the parties detriment contrary to the requirement of good faith. Creditor is prohibited from  
17 earmarking debtor's payments and mixing, combining or co mingling funds to pay for the very  
18 Internet Service Provider ("ISP") registration fees whereby the instrument is used to harass,  
19 attack, instill duress and control Debtor. Such action conspired by Defendants' is clearly  
20 fraudulent misappropriation of this Debtor's funds which originated as mortgage payments.  
21

22 Direct tortious activity against any debtor is blatant abuse of creditor bank privileges,  
23 especially when that creditor bank shares fiduciary interest in a competitive company as that of  
24 the debtor. Under the Court's inherent authority to secure permanent injunctive relief and other  
25

1 equitable relief for this Plaintiff, including restitution for unjust enrichment against the  
2 Defendant's for failing to maintain procedures ensuring compliance with contractual obligations,  
3 blatant collusive tortious violations, unfair business practices and other critical legal  
4 encroachments which culminate in multiple breach of contract violations causing serious  
5 irreparable injury, Plaintiff seeks remedy.

6 The Blatant tortious activity paid for with Debtor's mortgage payments proves further  
7 *errore calculi* of Plaintiff's account. Creditor participatory aiding and abetting to intentionally  
8 harm the debtor client is a gross breach of this shared fiduciary responsibility creating *exceptio*  
9 *non causa debti*. Defendants' willful neglect and gross breach of contractual obligations *conditio*  
10 *sine qua non* for Plaintiff's failure to maintain mortgage payments and this instant bankruptcy.  
11 Defendants' enforcement of this dishonored, breached, mortgage contract culminated in their  
12 Motion for Lift of Automatic Stay during Debtor/Plaintiff's ultimate economic failure as actual  
13 cause of Defendants inappropriate tortious M.O. creating the Plaintiff's inability to perform  
14 under the contract and subsequent bankruptcy, and thus qualifies as a voidable Motion under  
15 Title 11 USC § 303(a)(b)(2)(d)(f)(g)(h)(i)(j)(k), 547(b) and 362(b)(20)(21) subsection (a), (d)4.

16 Plaintiff contends and qualifies this codified line of reasoning taking legal action to seek  
17 damages due to Defendants' unconscionable actions that dishonored contractual obligations  
18 making a voidable fundamental breach both anticipatory and actual through what now appears to  
19 be defective paperwork by gross contract confusion and Plaintiff's pernicious belief of a provenly  
20 false security and reliance on the tantamount juristic act with Defendants. By and through  
21 Creditor's grossly breached contract, Defendants Motion to Lift Automatic Stay has become  
22 void. "By strict definition that which is void is nugatory and of no effect and cannot be cured;  
23 that which is voidable may be either voided or cured." Black's Law Dictionary.  
24  
25

4

1 This Court need not be lectured on contract law, the following basics are noted for benefit  
2 of the Defendants' and may also be found in the UCC: (1). Breach of duty (negligence) a failure  
3 to perform a duty owed to another or to society; a failure to exercise that care which a reasonable  
4 man would exercise under similar circumstances. In the absence of an express term governing  
5 the sequence of performance, and in the absence of circumstances that imply a sequence of  
6 performance, default rules supply the answer. Blyth v Birmingham Waterworks Co (1856) 11  
7 Exch 781. (2). Breach of trust with fraudulent intent "a larceny after trust, which includes all of  
8 the elements of larceny except the unlawful taking in the beginning." State v. Owings, 205 S.C.  
9 314, 316, 31 S.E.2d 906, 907 (1944). (3). Material breach is a breach that is substantial and  
10 operates to excuse further performance by the aggrieved party. A material breach destroys the  
11 value of the contract and gives rise to an action for breach of contract.

12 Defendants' have clearly acted unprofessionally in of breach of contract as detailed  
13 herein, and thus have violated their entire authority to claims against this debtor Plaintiff and are  
14 monetarily responsible for their illegal actions against this private Plaintiff.

15  
16 **V. PREMISIS: CAUSE OF ACTION**

17 While Plaintiff maintains a registered automobile manufacturing company and is  
18 competitive to the interests of Defendants while also under mortgage contract with Creditor  
19 Defendant, the following incidents shine a beacon of light on multiple transgressions.

20 Defendants' agent Mr. Kris J Kordella, did on June 9<sup>th</sup>, 2009 at 10:56:50 AM enter  
21 Plaintiff's professional business website URL <http://mealercompanies.com> with intent to  
22 strategically sabotage, whether by and through direction of management or strictly through  
23 respondeat superior contributory and comparative negligence originating while at work under  
24 General Motors Corporation roof yet subordinate to the GMAC/(fs) owned Internet Service  
25 Provider's ("ISP") and by and through other legally responsible parties acting in concert with at



1 least two other fully documented, simultaneous invasions by additional GM-GMAC agents who  
2 may or may not have been directed by superiors, did sign into and complete the required  
3 personal and professional Blogger information at 11:29:31 AM in order to develop sophisticated  
4 commentary about Plaintiff on Plaintiff's RSS feed, investor oriented website as coming from a  
5 highly rated financial Blogger and engineering expert related to GM-GMAC under  
6 "kris.j.kordella@gm.com" as "MONEY01" and did purposely write strategically worded, grossly  
7 disparaging, humiliating, defamatory statements regarding JL Mealer and the Mealer Automobile  
8 and did days later follow up the initial blackening comments about Plaintiff with direct emails to  
9 multiple interested parties further defaming Plaintiff as a "fraud", compounding the humiliating  
10 damage to Plaintiff and becoming a trespasser, ab anito: With unclean hands, Defendant acted in  
11 concert with multiple employee agents, did willingly and knowingly trespass with malicious  
12 intent to defile and harass Plaintiff's privacy and did unfairly proximate cause of immediate and  
13 future financial loss through gross misconduct resulting in crippling financial constraints being  
14 shackled upon Plaintiffs that maintain mortgage with Defendants who coincidentally have  
15 equitable stake in a failing competitive-business, did attempt to hinder and restrain "Mealer  
16 Automobiles" and other Mealer-products to be manufactured by Plaintiffs for international trade  
17 from competing in the well-renowned General Motor's vast product sales market, by and through  
18 pervasive monopolistic behavior, trade libel per se, did intentionally invade to inflict duress,  
19 commit reckless and intentional tortious interference upon Plaintiffs, intentionally creating an  
20 impossibility to perform under the mortgage contract, which did prevent Plaintiffs from  
21 expanding a competitive-business, maintain their livelihood and did intentionally and unfairly  
22 hinder prospective trade agreements through Defendants' far reaching libelous assault, abusive  
23 and manipulative unfair business practices through direct unwarranted defamation of character,  
24  
25

6

1 the blackening of Plaintiffs' good name resulting in intentional, unreasonable restraint of trade  
2 per se by deliberately humiliating, embarrassing and distorting Plaintiffs' ability to conduct  
3 international and domestic trade through acts of purposefully defamatory laden tort designed to  
4 and accomplishing the induced abandonment of prospective and pending "B-Round Expansion  
5 Capital" funding contracts between private investors and Plaintiffs' growing business, thus  
6 perpetrating unfair business practices through combination; acting in concert and with corporate  
7 assistance, corporate management, corporate supervisors and other agent employees within the  
8 General Motors Corporation, General Motors Acceptance Corporation, General Motors  
9 Company, GMACfs, and other subsidiaries who benefited from this anti-competitive conduct  
10 which abrogated this Plaintiffs' right of unhindered contract and pursuit of a competitive-trade  
11 while Plaintiffs proceeded under duress and relied on an expectancy of Mortgage Holder  
12 Defendants' implied duty of good faith, that said Defendant would never violate this duty and  
13 resort to illegal misconduct that would ultimately cause hinder, delay and fraudulent obstruction  
14 to Debtor Plaintiffs' ability to maintain mortgage payments, which is Defendants' liability for  
15 intentional duress, malfeasance creditor misconduct with criminal and tortious intent, gross  
16 negligence, fraudulent inducement, intentional misrepresentation and breach of contract, breach  
17 of fiduciary duty and intentional interference with Plaintiff's prospective advantage.  
18

19 The Mortgage propagated between parties further fails and dissolves *exceptio quod metus*  
20 *causa* thus; "Reverting to the defense raised by first defendant [Plaintiff], it is clear that a  
21 contract may be vitiated by duress (*metus*), the *raison d'etre* of the rule apparently being that  
22 intimidation or improper pressure renders the consent of the party subjected to duress no true  
23 consent at all." *Arend and Another v Astra Furnishers (pty) Ltd 1974 (1) SA 298 (C)*  
24

25 7

1 **Maxim of law; Nemo debet rem suam factor aut defectu suo amittere.** No one should lose  
2 his property without his act or negligence. Co. Litt. 263

3 This enjoined Complaint, Motion (argument), by law, can only regard the personal  
4 attacks on John Lewis Mealer and family in regards to Plaintiffs' ability to pursue business  
5 objectives and gather growth funding for Mealer Companies LLC, and not per se for claims  
6 made by the company itself. Mealer Companies LLC must remain witness at this time.

7 There can be no confusion as to the purpose of the Plaintiff's website and clearly, the  
8 Defendant acted in concert to restrict Plaintiff's rights. Defendants' planned, committed and  
9 achieved the intended consequences resulting from their defamatory blackening remarks about  
10 Plaintiffs' person, business goals and thus crippled Plaintiffs' ability to maintain debt payments.

11 Plaintiff's website details without equivocation the reason for the websites existence on  
12 page 2 entitled, "WHAT WE ARE REALLY ABOUT" and URL second page link to:

13 "[http://mealercompanies.com/?page\\_id=2](http://mealercompanies.com/?page_id=2)" as follows within the first sentence and paragraph:

14  
15 "Mealer Companies LLC is gathering funding to begin full scale production of our  
16 automobile and 220v full power source (combined as one). We have the vehicle, the  
17 patents, the key personnel and are now simply procuring the key ingredient...  
18 *The remainder of our investment money.*"

18 **VI. DEFENDANTS' UNCLEAN HANDS, ANNOTATED EXHIBITS**

19 GM-GMAC did on June 9<sup>th</sup>, 2009 enter Plaintiff's professional business website URL  
20 <http://mealercompanies.com>, signed into website to Blog via organization name, "General  
21 Motors Corporation" (Exh G-3) Registered by "GMC-20" at "GMAC(fs)" Corporate  
22 Headquarters"(Exh H) as "MONEY01" and wrote grossly disparaging and via the World Wide  
23 Web, globally visible and RSS fed comments about JL Mealer and privately held company  
24 Mealer Companies LLC and later followed up with emails to interested parties referring to non-  
25

8

1 public figure JL Mealer as a fraud. "It is apparent that under US corporate law, only gross  
2 negligence suffices to find a director liable to compensate for damage she or he causes." Smith  
3 v. Van Gorkom or the Trans Union case, 488 A.2d 858 (Supreme Court of Delaware, 1985).  
4 "*Culpa Lata Dolo Equiparator*" Gross negligence is held to be equivalent to intentional wrong.

5 **A. Annotated Exhibit G-3**

6 Document detailing Internet Protocol "IP" address confirmation by official agencies  
7 located at: <http://www.ipadress.com/whois/198.208.251.24> Defines Internet Protocol "IP"  
8 address, 198.208.251.24 is applied to Defendants' employee agent, Kris Kordella aka  
9 [kris.j.kordella@gm.com](mailto:kris.j.kordella@gm.com) identified and personally admitted as Blogger "MONEY01".

10 **B. Annotated Exhibit G-1**

11 Document located at: <http://www.ip-adress.com/whois/198.208.251.22>  
12 visitor identified under Internet Protocol "IP" address 198.208.251.22 which is applied to user  
13 Christy Garwood of [christy.garwood@gm.com](mailto:christy.garwood@gm.com) who is appears to be a professional public  
14 relations Blogger for Defendant GM-GMAC that was on Plaintiff's website in concert with Mr.  
15 Kris J. Kordella up to the point Mr. Kordella left the libelous and blackening attacks on JL  
16 Mealer on June 9<sup>th</sup>, 2009.

17 **C. Annotated Exhibit G-1 NOTE:** Whois information lists "IP" 198.208.251.22, (#23),  
18 (#24) assigned to Defendants' confirms Internet Protocol ("IP") owner Organization Name as  
19 "General Motors Corporation", who's Corporate ID is known as "GMC-20" which is registered  
20 to address: "200 Renaissance Center, Detroit Michigan 48265, US."  
21

22 **D. Annotated Exhibit H**

23 **One of many GMAC(fs) Corporate created Documents;** FDIC filed, SEC registered,  
24 and also located at Defendants' website in their Corporate Documents, URL:  
25

1 <http://www.gmacfs.com/us/en/business/investing/demandnotes/Prospectus.html>, was specifically  
2 written by Defendants' entitled, "GMAC Financial Services Prospectus for Demand Notes"  
3 which is available for download from their website on as of 3/17/2010. SEC, FTC and FDIC also  
4 have registered copies available upon request, wherein the Defendants' clearly state in multiple  
5 areas of the 24 page document that GMAC(fs) Headquarters and the "Principle Executive  
6 Offices of GMAC" address as: "GMAC LLC 200 Renaissance Center Detroit, Michigan 48265"

7 GMAC, GMACfs Headquarters as documented on GMAC website clearly identifies the  
8 same address of the registered IP/Internet Service Provider "ISP" address above as belonging to  
9 the Defendants', clearly in connection to GMAC and GMACfs provides prima facie evidence of  
10 culpability and combined contributory gross negligence in the matters at hand.

11 **VII. DEFENDANTS' DEFAMATORY ASSAULT**

12 **Defamation:** "A statement which causes harm to reputation".

13  
14 A statement is defamatory if it "tends to injure the plaintiff's reputation and expose the  
15 plaintiff to public hatred, contempt, ridicule, or degradation." Phipps v. Clark Oil & Ref. Corp.,  
16 408 N.W.2d 569, 573 (Minn. 1987). "When the defamatory meaning is not apparent on its face,  
the plaintiff has the burden of pleading and proving such extrinsic facts." Anderson v.  
Kammeier, 262 N.W.2d 366, 371 (Minn. 1977). "*Actus non facit reum nisi sit rea*," The acts is  
not guilty unless the mind is also guilty

17 The comments below "*highlighted, italicized in quotes*", and meanings "underlined in  
18 quotes", were in their entirety, published by Defendants' on June 9<sup>th</sup>, 2009 during the attack  
19 emailed via RSS feed to many highly interested qualified investors, future customers,  
20 engineering employees et al. who had signed up for automatic website updates from the privately  
21 owned Mealer Companies LLC, investor information based website, "mealercompanies.com";

22  
23 1a. (Merriam Webster Dictionary), ... "*Mealer Automobiles? America's next major*  
24 *automobile company??*"

25 "Question Marks and multiple usage of Question marks meaning: a: Something

/0

1 unknown, unknowable, or uncertain b: someone (as an athlete or an automaker) whose  
2 condition, talent, or potential for success is in doubt."

3 1b. (Collins English Dictionary), "...**HAH!!!!!!!!!!!!!!!!!!!!!!**"...

4 "HAH abbreviation of HA meaning an exclamation denoting surprise, joy or grief. Both  
5 uttered and as written, it expresses as great variety of emotions, determined by the time  
6 or the context. When repeated, ha ha, it is an expression of laughter, satisfaction, or  
7 triumph, sometimes derisive  
8 laughter, or sometimes it is equivalent to "Well, it is so." Ha-has, and articulate  
9 hootings of satirical rebuke. Carlyle

10 1c. (Stuart Jeffries, "The Joy of Exclamation Marks!" The Guardian, Apr. 29, 2009)

11 "There is surely a point after which exclamation marks no longer express friendliness.  
12 In this post-literal time, exclamation marks become signs of sarcasm as witty  
13 correspondents rebel against their overuse. Hence: 'I loved your last email! OMG did I  
14 LOVE it!!!!!!' The point is they didn't. They were being IRONIC."

15 1d. Use of multiple Exclamation Points with exclamation point defined as: "as a  
16 symbol of factorial function, or (in logic) occurring with an existential quantifier"

17 2. (Cambridge Idiom Dictionary), "...*it's obvious you don't have one (a mind)...*"

18 [commonly referred to as *out of your mind*:]

19 "extremely stupid or mentally ill."

20 3a. (Meriam-Webster Dictionary), "...*self serving...*"

21 "Serving one's own interests often in disregard of the truth or the interests of others."

22 3b. (Merriam-Webster Dictionary), "...*pathetic...*"

23 "Pitifully inferior or adequate"

24 3c. (Merriam-Webster Dictionary), "...**MORON...**"

25 "1. a person affected with mild retardation. 2. a very stupid person."

1 4. (Merriam-Webster Dictionary), "...**CLOWN...**"

2 "2. rude ill-bred person. 3. A person who habitually jokes and plays the buffoon.

3 5. (Merriam Webster Dictionary), "...**real...**" used twice to explain that Mealer was not

4 "real" and Mealer Companies LLC was not connected to a "real" engineering firm, thus

5 ||

1 inflect that MONEY01 was in fact real, creating a reliance on MONEY01 Blogger's  
2 engineering skills as well as financial opinions in regards to JL Mealer and Mealer  
3 Companies LLC.

4 "1. Not artificial, fraudulent, or illusionary. 2. GENUINE. 3. Genuinely good or capable  
5 of success.

6 **VIII. BLATANT INTENTIONS OF DEFENDANT. MENS REA**

7 "MONEY01" is a term often used when teaching of principles of economics, business  
8 investing, venture capital, stock market affairs and other finance related matters whereas,  
9 MONEY01 by the very name portrays the premiere and foremost authority over the cognitive  
10 and factual content is portrays. With "MONEY01" inferred as the leader of monetary matter,  
11 Defendant seemed to imply that they were the foremost authority on financial matters of Mealer  
12 Companies LLC to be detailed by and through following MONEY01 discussions of MEALER  
13 AUTOMOBILES and JL MEALER himself. The term and moniker "MONEY01" as used by  
14 GM-GMAC agent employees as the Blogger name during the intentional misrepresentation and  
15 grossly negligent attack on MEALER represents to the reader that Defendants' opinion and  
16 statements far exceed even the collegiate terminology for a prerequisite class usually followed  
17 with "101" such as "English101" or by comparative, "Money101" as fraudulently claiming to be  
18 the premium authority on investing matters.

19 This egregious misconduct is a complete breach under an implied duty of good faith by  
20 Defendants' mortgage holder by and through acts of fraud and misrepresentation with intent to  
21 destroy Plaintiffs' reputation and this debtor's ability to compete within a business that is in direct  
22 competition to Defendants' corporate affiliate and co-Defendant who, in bankruptcy and  
23 reformation of their new corporate identity have benefited from degrading this Plaintiff, and  
24 collisional tortious interference of Plaintiff's business activities, preventing Plaintiffs' from  
25

12

1 gaining "B-Round" growth funding, expansion of Mealer Companies LLC business is an  
2 unconscionable breach of fiduciary duty resulting in both personal injury and lawfully repugnant  
3 commercial disparagement under unfair business practices. Mealer Companies LLC is per se  
4 registered as an alternative fuel automaker as of 09/19/2008, Arizona Corporation Commission  
5 No. L-1477212-5, Internal Revenue Service Employer ID No. 26-3359384. The extreme duress  
6 GM-GMAC exerts on Mealer's person, family and future business matters with the blackening of  
7 Plaintiff's good name hinders Mealer from garnering support for funding second round  
8 expansion of his automobile manufacturing enterprise and has defiled him from attaining high  
9 level work related to automobile manufacturing industry.

10 The intentions and results of contract corrupting actions by the Defendants speak for  
11 themselves. "*Ex antecedentibus et consequentibus fit optima interpretatio*," The best  
12 interpretation is made from antecedents and consequents. 2 Co. Inst. 317. "*Culpa Lata Dolo*  
13 *Aequiparatur*" Gross negligence is equal to fraud.

14 **IX. ADMISSION OF GUILT BY GM-GMAC**

15 *Defendants' Mea maxima culpa*

16  
17 This Instant Case provides multiple violations of century old laws regulating business  
18 practices as professional conduct is concerned. This case proves the illegal anti-competitive  
19 schemes that Defendants' have already admitted to when they offered a private half-hearted,  
20 insolent apology to MEALER (Exh B-1), pleading in part due to the then current GM-GMAC  
21 issues of looming bankruptcy and restructuring the employees and management were panicked  
22 which is copied in part as:

23 "... lose most of my pension, all medical benefits and on, and on. Basically a financial  
24 Armageddon for me and hundreds of my friends and family members that have relied on  
25 GM for the last 60 plus years." ... "However, the bottom line is I shouldn't have resorted  
to the "knucklehead" name calling in my blog and inferring your auto company isn't



1 legit..."

2 The private and disappointing apology that Defendants' issued from their employed agent  
3 is direct admission of guilt providing incontrovertible prima facie evidence, providing legal  
4 causation for the entirety of Plaintiff's Motion against Defendants' original claims which are  
5 counterclaimed herein by Plaintiff. Not only does Defendants' fraud vitiate the mortgage  
6 contract, but creates a basis for claim of damages for the intentional malicious attack which  
7 created the need for Plaintiff's bankruptcy and subsequent loan default. "Most of the disputes in  
8 the world arise from words." Morgan v. Jones, Lofft 160, 176, 98 Eng. Rep. 587, 596 (K.B.  
9 1773) (Murray, C.J.).

10 Defendant's series of carefully articulated, defamatory libel 'per se' through a series of  
11 words and phrases which were Blogged by Defendant on Plaintiff's website on the World Wide  
12 Web and then compounded through direct email with interested parties impugning the validity of  
13 and thus creating public and private doubt of Plaintiff has by an unmistakably clever intent,  
14 destroyed prospective capital B-Growth funds to be used for business expansion and Plaintiff's  
15 economic growth and ability to cover mortgage payments. Defendant acted to fraudulently  
16 transfer and convey title of Plaintiff's real property by blatant tortious acts.

17  
18 "Fraud vitiates the most solemn contracts, documents and even judgments," U.S. v.  
19 Throckmorton, 98 U.S. 61. Defendants' admission per se of their deceptive acts prove  
20 intentional malicious intent and fraud ab initio; "*Qui adimit medium, dirimit finem.*" He who  
21 takes away the means, destroys the end. Co. Litt. 161. Defendants' had unequivocally intended  
22 and expected the Plaintiff to fail by and through their fraudulent actions.

23 Therefore the Defendants' entire contractual lien claimed on Plaintiff's home fails on it's  
24 face to satisfy terms, under Slander of Title (Material Misrepresentation), Breach of Contract  
25

/4

1 creating an issue of Impossibility of Performance through Defendants' fraudulent scheme to  
2 collect and prevent mortgage payments by predatory loan servicing and egregious general fraud.

3 **X. COMPENSATORY DAMAGES**

4 *Respondeat superior, Actus reus*

5 Defendants expected and pursued the consequences of their defamatory blackening  
6 remarks of Plaintiff and Plaintiff's business and Plaintiff's ability to maintain mortgage payments  
7 prior to the publishing of comments which destroyed Plaintiff's reputation and hindered the  
8 business goals of, by and sought by this Plaintiff. Plaintiff's website clearly details the reason for  
9 the websites existence on page 2 entitled, "WHAT WE ARE REALLY ABOUT" and URL link  
10 "[http://mealercompanies.com/?page\\_id=2](http://mealercompanies.com/?page_id=2)" as follows in the first sentence and paragraph:

11 "Mealer Companies LLC is gathering funding to begin full scale production of our  
12 automobile and 220v full power source (combined as one). We have the vehicle, the  
13 patents, the key personnel and are now simply procuring the key ingredient... *The*  
14 *remainder of our investment money.*"

14 Plaintiff's damages are not limited to the actual loss of pending contracts and prospective  
15 advantage of B-Growth Funding from multiple qualified investors who were completing their  
16 due diligence investigations which abruptly ended when Defendant publicly humiliated the  
17 Plaintiff which are outlined on Page 8 in plaintiff's funding request documents as distributed to  
18 qualified investors, Venture Capital firms, Banks and other lending outlets which states very  
19 clearly Plaintiff's intention's for funding the growth of Mealer Companies LLC (emphasis and  
20 font existing) entitled, "MEALER COMPANIES, FUNDING REQUEST SUMMARY,  
21 CONFIDENTIAL DISCLOSURE, J.L. MEALER, Q2 JUNE 2009":  
22

23 " Mealer seeks to raise start-up \$95,000,000 in VC capital and lease-back agreements over the  
24 first three years for Phase I, not taking into account pre-and post-production sales. After two  
25 years, Mealer will require another \$105,000,000 of either private capital or loans for Phase II  
secondary manufacturing purposes. The company will have one major manufacturing facility in  
either VA or TN and electronics research and developmental center and manufacturing center  
either in the same state or elsewhere. At least four other ideal manufacturing locations are

15

1 under review and remain highly attractive. The cost of a fund-to-suit conversion of existing  
2 facilities proves to be a fast, viable and cost-effective alternative to new site construction. And,  
3 since there are a growing number of such facilities coming to market, Mealer is sure to find the  
4 right facilities to meet our requirements. "

5  
6 **XI. MEMORANDUM AND DEFENDANTS' VIOLATIONS OF LAW, ACTUS REAS**

7 *Res ipsa loquitur "the thing speaks for itself."*

8 Defendant having initiated their libelous attack and being responsible for Defamation per  
9 se against this Plaintiff, by and through their blackening attack, did inflict and intentionally  
10 commit gross violations of following laws against the Plaintiff and Plaintiff's expansion of trade.

11 **COUNT ONE. Intentional Interference With Prospective Economic Advantage**

12 The elements of the tort of are:

13 1. an economic relationship between [the plaintiff and some third person]  
14 containing the probability of future economic benefit to the [plaintiff],  
15 JL Mealer, while discussing funding for "B-Round Business Expansion" of the Mealer  
16 Automobile as an alternative fuel powered vehicle manufacturing company known as  
17 Mealer Companies LLC, with multiple high level funding groups, private individuals,  
18 engineers, supply companies, fabrication companies, et al, was unfairly attacked and  
19 irreparably blackened, libeled, other wise made to lose these funding accounts by  
20 Defendants who later apologized for (admitted) the events.

21 2. knowledge by the defendant of the existence of the relationship,  
22 Defendants conspired with multiple agents who entered Mealer's investor oriented  
23 website, signing up as Blogger named "MONEY01" then proceeded to destroy and  
24 blacken Mealer's reputation, name, company value and over-all funding viability of  
25 Mealer Automobiles, projects, goodwill and business in whole with crudes remarks  
while also claiming to be a "...real..." engineer of "...real automobiles..." and then

1 ending his grossly disparaging tirade with "...I wish you All the worst the world can give  
2 a self serving pathetic MORON."

3 3. intentional acts on the part of the defendant designed to disrupt the relationship,  
4 Defendants signing on as MONEY01 provides acknowledgement that "B-Round  
5 Expansion Capital" was the objective of Mealer's website, and the defamatory attack  
6 proves malicious intent in conjunction with the admission/apology.

7 4. actual disruption of the relationship, [and] (5) damages to the plaintiff  
8 proximately caused by the acts of the defendant.' (Buckaloo v. Johnson (1975) 14  
9 Cal.3d 815, 827.)

10 Mealer has lost all pending business and pending contractual "B-Round Expansion  
11 Capital" business and personal relationships due to the June 9<sup>th</sup>, 2009 attack originating  
12 from within Defendants' offices.

13 **COUNT TWO. DEFAMATION and other ENCROACHMENTS**

14 By and through corporate Public Relations agents, supply side and engineering  
15 employees acting in what appears to be combined effort may have been used to unfairly prevent  
16 Plaintiff from maintaining mortgage payments and livelihood which ultimately resulted in  
17 Mealer going bankrupt and declaring Chapter 7 BK in Oct 2009 once the "pending-due-  
18 diligence" of investors fell through per the intentional and subsequent published personal,  
19 professional and character attacks against Mealer from the once successful, larger and more  
20 experienced automaker (GM). There is no legitimate or lawfully protected reason for Defendants  
21 to venture into the privacy of Plaintiff's public domain in order intentionally defile his name and  
22 future to create what amounts to a clear and present danger against Plaintiff's ability and right to  
23 life, liberty and pursuit of property, compounded by contractual obligation such as a mortgage  
24 debt and the obligate (Plaintiff) Constitutionally protected rights.

1 Supreme Court Justice Oliver Wendell Holmes, Jr stated concisely in what has become a  
2 landmark ruling related to the First Amendment and criminal, seditious libel, "the words are used  
3 in such circumstances and of such a nature as to create a clear and present danger that they will  
4 bring about the substantive evils that Congress has a right to prevent..." "...no court could regard  
5 them as protected by any constitutional right..." Albeit, GM-GMAC has not committed criminal  
6 and seditious libel against the United States, but the very *actus reus* in controlling a private man's  
7 ability to live freely and conduct a competitive-business simply due to corporate fear of losing  
8 revenue is unjust enrichment, tortious and fraudulent on it's face within contract between parties.

9 The following counts relate to the attacks as defined and explained within this document.

10 **COUNT TWO-1. Title 15 USC § 1. Trusts, etc., in restraint of trade illegal; penalty**

11 "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint  
12 of trade or commerce among the several States, or with foreign nations, is declared to be  
13 illegal...."

14 **COUNT TWO-2. Title 15 USC § 2. Monopolizing trade a felony; penalty**

15 "Every person who shall monopolize, or attempt to monopolize, or combine or conspire  
16 with any other person or persons, to monopolize any part of the trade or commerce  
among the several States, or with foreign nations..."

17 **COUNT TWO-3. Title 15 USC § 5. Bringing in additional parties**

18 "Whenever it shall appear to the court... ..that the ends of justice require that other  
19 parties should be brought before the court, the court may cause them to be summoned..."

20 **COUNT TWO-4. Title 15 USC, CH 22, SUB III, §1125(a)(1)(B)**

21 "(1) Any person who, on or in connection with any goods or services... uses in  
22 commerce any word, term, name, symbol, or device, or any combination  
23 thereof, or any false designation of origin, false or misleading description of  
fact, or false or misleading representation of fact,  
which—

24 (B) ... or promotion, misrepresents the nature, characteristics, qualities, or  
geographic origin of his or her or another person's goods, services, or  
25 commercial activities, shall be liable in a civil action by any person who  
believes that he or she is or is likely to be damaged by such act."

1 The gross violations noted above are merely outlines of the crimes committed upon this  
2 Plaintiff and should not be considered the limits of damages. Plaintiff reserves the right to amend  
3 these claims as the full brunt of this crippling attack settle in.

4 **XII. PLAINTIFF'S ARGUMENT**

5 The following laws are in favor of the Plaintiff in regards to protection under the law for  
6 violations by the Defendants' against mortgage contract obligations revolving around Plaintiff's  
7 Real Property at 6333 Gardenia Lane, Show Low, Arizona, which is the main factor of  
8 Defendants' actions regarding their desire to Lift the Automatic Stay during Plaintiff's  
9 bankruptcy, AND the reason for Defendants' contractual lien against said Real Property.

10 **A. Real Estate Settlement Procedures Act of 1971 ("RESPA")**  
11 **[Codified to 12 USC 2616]**

12 "This Act does not annul, alter or affect, or except any person subject to the provisions of  
13 this Act from complying with, the laws of any State with respect to settlement  
14 practices..."

15 **B. Real Estate Settlement Procedures Act of 1974 ("RESPA")**  
16 **[Codified to 12 U.S.C. 2601 note]**

17 "To further the national housing goal of encouraging homeownership by regulating  
18 certain lending practices and closing settlement procedures in federally related mortgage  
19 transactions to the end that unnecessary costs and difficulties of purchasing are  
20 minimized, and for other purposes."

21 **C. Section 19**

22 "(b) No provision of this Act or the laws of any State imposing any liability shall  
23 apply to any act done or omitted in good faith in conformity with any rule,  
24 regulation, or interpretation thereof..."

25 Contract law is very clear and concise in regards to fraudulent activities by either  
contractual obligate. There is nothing more blatantly unlawful than the tortious violations noted  
herein which created difficulty in settlement or the mortgage debt, explicitly Defendants'

1 flagrant, abusive violations and oppressive bad faith conduct upon the Plaintiff which resulted in  
2 the creation of numerous incurable deficiencies that by all standards of law have reduced their  
3 claim to Lift The Automatic Stay as completely nugatory.

4 **D. FDIC LAW REGULATIONS AND ACTS 6500 Consumer Protection,**  
5 **Title VIII-DEBT COLLECTION PRACTICES**

6 **TITLE 15 USC 1692e,f**

7 **§ 806 HARRASSMENT OR ABUSE**

8 A debt collector may not engage in any conduct the natural consequences of  
9 which is to harass, oppress, or abuse any person in connection with the collection  
10 of a debt. Without limiting the general application of the foregoing, the following  
11 conduct is a violation of this section

- 12 (1) The use or threat of use of violence or other criminal means to  
13 harm the physical person, reputation, or property of any person.

14 **§ 807 FALSE OR MISLEADING REPRESENTATIONS**

15 A debt collector may not use any false, deceptive, or misleading representation or  
16 means in connection with the collection of any debt. Without limiting the general  
17 application of the foregoing, the following conducts is a violation of this section:

- 18 (8) Communicating or threatening to communicate to any person credit  
19 information which is known or which should be known to be false,  
20 including the failure to communicate that a disputed debt is disputed.

- 21 (10) The use of any false representation or deceptive means to collect or  
22 attempt to collect any debt or to obtain information concerning a consumer.

23 **(f)§ 808 UNFAIR PRACTICES**

24 A debt collector may not use unfair or unconscionable means to collect or attempt  
25 to collect any debt. Without limiting the general application of the foregoing, the  
following conduct is a violation of this section

- (6) Taking or threatening to take nonjudicial action to effect  
dispossession or settlement of property if—

(A) There is no right to possession of the property claimed as  
collateral through an enforceable security interest;

(B) there is no present intention to take possession of the property;  
or the property is exempt by law from such dispossession or  
disablement.

1 **E. Title 11 USC, § 510(c) Bank Reform Act of 1978**

2 (c) Notwithstanding subsections (a) and (b) of this section, after  
3 notice and a hearing, the court may--

- 4 (1) under principles of equitable subordination 15, subordinate for purposes of  
5 distribution all or part of an allowed claim to all or part of another allowed  
6 claim or all or part of an allowed interest to all or part of another allowed  
7 interest; or  
8 (2) order that any lien securing such a subordinated claim be transferred to  
9 the estate.

10 **F. Title 11 USC 362(b)(20) under subsection (a),** of any act to enforce any lien  
11 against or security interest in real property following entry of the order under subsection  
12 (d)(4) as to such real property in any prior case under this title, for a period of 2 years  
13 after the date of the entry of such an order, except that the debtor, in a subsequent case  
14 under this title, may move for relief from such order based upon changed circumstances  
15 or for other good cause shown, after notice and a hearing;

16 **G. Pursuant 11 USC § 362(d)(1) of the Bankruptcy Code,** the automatic stay may  
17 only be lifted to permit a litigation to go forward in another court upon an initial showing  
18 of "cause" by the party seeking relief from the stay. Sonnax Indus., Inc. v. Tri  
19 Component Prods. Corp. (In re Sonnax Indus., Inc), 907 F. 2d 1280, 1285 (2d Cir.  
20 1990); In re New York Med Grp., P.C., 265 B.R. 408, 413 (Bankr. S.D.N.Y.2001).1

21 **H. Title 18 USC § 1346. Definition of "scheme or artifice to defraud"**  
22 For the purposes of this chapter, the term "scheme or artifice to defraud" includes a  
23 scheme or artifice to deprive another of the intangible right of honest services.

24 **I. Title 18 USC § 1348. Securities fraud**

25 Whoever knowingly executes, or attempts to execute, a scheme or artifice—  
(1) to defraud any person in connection with any security of an issuer with a class of  
securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C.  
78l) or that is required to file reports under section 15(d) of the Securities Exchange Act  
of 1934 (15 U.S.C. 78o (d)); or

Title 18 is has been noted to detail the fraud by actual code that will negate prior claims  
made by this Plaintiff against contract violations negating this instant mortgage on it's face.



1 Defendants' are registered as a banking institution with the FDIC and SEC and required to file  
2 and report mortgages which have become reportable securities. Defendants' deal in Securities.

3 **XIII. ENJOINED MOTION FOR EVIDENTIARY HEARING**  
4 **CONCERNING GROSS CREDITOR MISCONDUCT**

5 For the reasons noted herein this enjoined document and by consenting rule for joined  
6 motion under 12 F.R.Civ.P.(g)(1), and presenting this instant case under extraordinary, exigent  
7 circumstances, Plaintiff Prays this court accept this Motion For Evidentiary Hearing Concerning  
8 Gross Creditor Misconduct as *enjoined* within and without this Adversary Complaint for the  
9 purpose of hearing the merits and accepting evidence of this case for final ruling due to an  
10 emergency situation creating an unfair advantage for Defendant during this legal engagement  
11 between parties, time is of the essence. Pursuant to common sense reasoning and a Plaintiff's  
12 bona fide effort to allow the mortgage holder Defendant a chance to remedy the gregarious harm  
13 caused and unaltered thus ongoing, by their agent through their corporately owned "ISP," this  
14 Plaintiff has extended his hand to resolve this situation from day one immediately upon the  
15 blackening, denigrating defamation which occurred on 6/9/09 and again from the moment an  
16 actual disruption of this private businessman to investor relations was realized 30, 60, 90, 120  
17 days later culminating in this bankruptcy, but Creditor has ignored this Debtor. Co-Defendant  
18 General Motors Corp during to their corporate bail-out and renaming responded through special  
19 Public Relations agent Christine Stein who contacted Plaintiff to resolve the situation and then  
20 backed out of the problem solving when crimes were validated. Plaintiff relies on this honorable  
21 court to push these proceedings into light, validate evidence, substantiate the breach of contract  
22 and compel both parties to court on these matters. A complete stay of proceedings for Plaintiff's  
23  
24  
25

22-

1 bankruptcy and Defendants' future Motions in regards to foreclosure on Plaintiff's mortgage is  
2 requested and Plaintiff Prays, court accepts the applicable laws noted herein to back this request.

3 **XIV. CONCLUSION**

4 Plaintiff hereby Prays this court rule in favor of Plaintiff requiring a case review  
5 adjudicated on the merits and evidence herein and prepare for an evidentiary hearing, and allow  
6 for discovery and disclosure proceedings for incidents and claims detailed within this enjoined  
7 complaint/motion and to deny Defendants' (Originally listed as "Movants") MOTION TO LIFT  
8 AUTOMATIC STAY for reasons described herein, AND to proceed with providing a legal  
9 forum whereby this case may be negotiated and applied pursuant to applicable laws and  
10 Plaintiff's Motion for Summary Judgment *subsequi* since Defendant's are entitled to a defense,  
11 AND/OR to grant immediate equitable relief in the form of Plaintiff's mortgage converted to a  
12 dischargeable debt, AND for just cause to eliminate the lien via permanent discharge injunction,  
13 and/or deny, denounce and remove Defendants' interest in Real Property known as 6333  
14 Gardenia Lane Show Low, Arizona (85901) for reasons and legal authority noted herein, AND  
15 consequential, compensatory and punitive damages for defamation and libelous offenses per se  
16 by Defendant causing pain and suffering on Plaintiff and Plaintiff's family as this court deem  
17 proper, AND to Rule in favor of the Plaintiff in regards to allegations of Title 15 USC § 1 & 2;  
18 for restraint of trade, attempt to monopolize, combination, conspiracy, for violations against  
19 Plaintiff in accordance to Title 15 USC, CH 22, SUB III, §1125(a)(1)(B) false or misleading  
20 description of fact, or false or misleading representation of fact in relation to Plaintiff's name and  
21 business, for damages incurred by Defendants placing Plaintiff in false light, for fraudulent  
22 inducement, for fraudulent obstruction, for combined contributory negligence, for impairment of  
23 earning capacity, for intentional duress, for trespass with intent to commit harm, for trespass and  
24  
25

1 assault with intent to violate contractual obligations, for Breach of Contract, for Breach of  
2 Fiduciary Duty, for Breach of good will, for malfeasance creditor misconduct with criminal  
3 intent, for Intentional Interference With Plaintiff's Prospective Advantage to the fullest extent of  
4 the law, AND to provide the maximum in monetary damages as detailed herein trebled where  
5 applicable, plus fines AND to prohibit Defendants' from further blackening Plaintiff's name or  
6 business, AND a written legitimate public apology from all Defendants'.

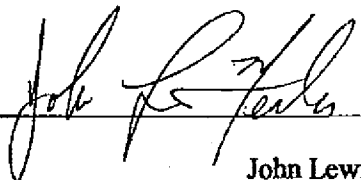
7 "The requirements for the issuance of a permanent injunction are (1) the likelihood of  
8 substantial and immediate irreparable injury; and (2) the inadequacy of remedies at law." *Dream*  
9 *Palace v. County of Maricopa*, 384 F.3d 990, 1010 (9th Cir. 2004). "In issuing an injunction, the  
10 Court must balance the equities between the parties and give due regard to the public interest."  
11 *High Sierra Hikers*, 390 F.3d at 642. District courts possess "broad discretionary power" to  
12 fashion equitable relief, *see Lemon v. Kurtzman*, 411 U.S. 192, 200 (1973).

13  
14 Plaintiff moving for this affirmative equitable remedy withing this bankruptcy due to  
15 breach of performance claims against Defendants' under 11 USC § 101(5)(B).

16 **XV. AFFIDAVIT VERFICATION BY SIGNATURE**

17 I, the Plaintiff, John Lewis Mealer, hereby claim the allegations and other facts regarding  
18 this bankruptcy issue of this case and all related cause of issues and evidence or annotated  
19 evidence as detailed by myself to be true to the best of my knowledge, and do hereby certify this  
20 statement with my signature below:

21 DATED: 3/30/2010

22   
23 John Lewis Mealer

FORM 104 (10/06)

2:10-ap-503

<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)
<b>PLAINTIFF(S)</b> John Lewis Mezler, wife, 2 sons	<b>DEFENDANT(S)</b> GMAC MORTGAGE LLC, GMACFS, GENERAL MOTORS CORP., GENERAL MOTORS CO., MOTORS LIQUIDATION CO., RESIDENTIAL CAPITAL LLC, KRISTY KORDILLA, CHRISTY GARWOOD, et al.	
<b>ATTORNEY(S)</b> (Firm Name, Address, and Telephone No.) In Propria Persona (Spec. Appointed) 6333 Gardenia Lane Show Low, Ariz 85901	<b>ATTORNEY(S)</b> (If Known) GMAC → PITE-DUNCAN, LLP 1375 Julliard, #200 PO Box 17933 San Diego, CA 92177-0933	
<b>PARTY</b> (Check One Box Only)		<b>PARTY</b> (Check One Box Only)
<input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Trustee <input type="checkbox"/> Other		<input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Trustee <input type="checkbox"/> Other
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)		
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with the lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.) <i>Note: Only a complaint including an objection to discharge under 11 U.S.C. § 727 will defer the clerk's entry of the debtor's discharge in bankruptcy. A complaint to determine the dischargeability of a debt under 11 U.S.C. § 523 does not affect the entry of a discharge with respect to other debts.</i>		
<b>FRBP 7001(1) - Recovery of Money/Property</b> <input checked="" type="checkbox"/> 11 - Recovery of money/property - § 542 turnover of property <input checked="" type="checkbox"/> 12 - Recovery of money/property - § 547 preference <input checked="" type="checkbox"/> 13 - Recovery of money/property - § 548 fraudulent transfer <input checked="" type="checkbox"/> 14 - Recovery of money/property - other <b>FRBP 7001(2) - Validity, Priority or Extent of Lien</b> <input checked="" type="checkbox"/> 21 - Validity, priority or extent of lien or other interest in property <b>FRBP 7001(3) - Approval of Sale of Property</b> <input type="checkbox"/> 31 - Approval of sale of property of estate and of a co-owner - § 363(h) <b>FRBP 7001(4) - Objection/Revocation of Discharge</b> <input type="checkbox"/> 41 - Objection/revocation of discharge - § 727(c), (d), (e) <b>FRBP 7001(5) - Revocation of Confirmation</b> <input type="checkbox"/> 51 - Revocation of confirmation <b>FRBP 7001(6) - Dischargeability</b> <input type="checkbox"/> 66 - Dischargeability - § 523(a)(1), (14), (14A) priority tax claims <input type="checkbox"/> 62 - Dischargeability - § 523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67 - Dischargeability - § 523(a)(4), fraud as fiduciary, embezzlement, larceny continued next column	<b>FRBP 7001(6) - Dischargeability (continued)</b> <input type="checkbox"/> 61 - Dischargeability - § 523(a)(5), domestic support <input checked="" type="checkbox"/> 68 - Dischargeability - § 523(a)(6), willful and malicious injury <input type="checkbox"/> 63 - Dischargeability - § 523(a)(8), student loan <input type="checkbox"/> 64 - Dischargeability - § 523(a)(15), divorce/separation property settlement <input type="checkbox"/> 65 - Dischargeability - other <b>FRBP 7001(7) - Injunctive Relief</b> <input checked="" type="checkbox"/> 71 - Injunctive relief - reinstatement of stay <input checked="" type="checkbox"/> 72 - Injunctive relief - other <b>FRBP 7001(8) - Subordination of Claim or Interest</b> <input type="checkbox"/> 81 - Subordination of claim or interest <b>FRBP 7001(9) - Declaratory Judgment</b> <input type="checkbox"/> 91 - Declaratory judgment <b>FRBP 7001(10) - Determination of Removed Action</b> <input type="checkbox"/> 01 - Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case - 15 U.S.C. §§ 78aaa et seq. <input type="checkbox"/> 02 - Other (e.g., other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint.		Demand \$ damages + \$20000 + multiple + apology
Other Relief Sought Please documents		

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 DISTRICT OF ARIZONA

Form 104 (10/06), Page 2

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR <i>GMAC</i>		BANKRUPTCY CASE NO. <i>09-24899</i>
DISTRICT IN WHICH CASE IS PENDING <i>Arizona</i>	DIVISIONAL OFFICE <i>Phoenix</i>	NAME OF JUDGE <i>Hon. Baum</i>
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) <i>John Lewis Meester</i>		
DATE <i>3/30/2010</i>	PRINT NAME OF ATTORNEY (OR PLAINTIFF) <i>John Lewis Meester</i> <i>John Lewis Meester</i>	

### INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, if it is required by the court. In some courts, the cover sheet is not required when the adversary proceeding is filed electronically through the court's Case Management/Electronic Case Files (CM/ECF) system. (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Parties.** Give the names of the parties to the adversary proceeding exactly as they appear on the complaint. Give the names and addresses of the attorneys if known.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not presented by an attorney, the plaintiff must sign.

## **EXHIBIT “H”**

1 Thomas M. Klein (010954)  
2 tom.klein@bowmanandbrooke.com  
3 C. Megan Fischer (019828)  
4 megan.fischer@bowmanandbrooke.com  
5 **BOWMAN AND BROOKE LLP**  
6 Suite 1600, Phoenix Plaza  
7 2901 North Central Avenue  
8 Phoenix, Arizona 85012-2761  
9 (602) 643-2300  
10 (602) 248-0947 – Fax

11 Joseph H. Smolinsky  
12 Brianna N. Benfield  
13 **WEIL, GOTSHAL & MANGES LLP**  
14 767 Fifth Avenue  
15 New York, New York 10153  
16 (212) 310-8000  
17 (212) 310-8117 – Fax

18 Attorneys for Motors Liquidation Company (f/k/a General Motors Corporation)

19 **IN THE UNITED STATES BANKRUPTCY COURT**

20 **FOR THE DISTRICT OF ARIZONA**

21 In re:

Case No. 2:09-BK-24899-RTB

22 JOHN LEWIS MEALER,

Chapter 7

23 Debtor,

24 JOHN LEWIS MEALER,

Adversary No. 2:10-AP-00503-RTB

25 Plaintiff,

**MOTION OF MOTORS LIQUIDATION  
COMPANY (F/K/A GENERAL MOTORS  
CORPORATION) TO DISMISS  
ADVERSARY COMPLAINT, AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES**

26 v.

27 GMAC Mortgage LLC, GMACfs,  
28 GENERAL MOTORS CORP., GENERAL  
MOTORS CO., MOTORS LIQUIDATION  
CO., RESIDENTIAL CAPITAL LLC,  
KRIS J. KORDELLA, CHRISTY  
GARWOOD, et al.,

Defendants.

29 This is a motion to dismiss an adversary complaint filed by the Debtor, John Lewis  
30 Mealer, on March 30, 2010. First, to the extent the adversary complaint seeks any

1 damages as to Motors Liquidation Company ("MLC") (identified in the adversary complaint  
2 as "Motors Liquidation Co."), it is void for violating the automatic stay in place as to MLC  
3 as a result of its chapter 11 filing on June 1, 2009 in the Bankruptcy Court for the Southern  
4 District of New York. Second, Mr. Mealer lacks standing to pursue an action on behalf of  
5 the estate in this chapter 7 case where the Trustee has not abandoned his exclusive right  
6 to proceed with this lawsuit. Third, on its face, the adversary complaint fails to state a claim  
7 upon which relief could be granted against the moving parties and, thus, should be  
8 dismissed as a matter of law pursuant to Rule 12(b)(6) of the Federal Rules of Civil  
9 Procedure.

10 This motion is made on behalf of General Motors Corporation, n/k/a Motors  
11 Liquidation Company ("MLC") (identified in the adversary complaint as "General Motors  
12 Corp." and "Motors Liquidation Co.").

13 This motion is supported by the accompanying Memorandum of Points and  
14 Authorities and all pleadings and papers of record in this matter.

15 Dated this 29<sup>th</sup> day of April, 2010.

16 BOWMAN AND BROOKE LLP

17 By: /s/ C. Megan Fischer

18 Thomas M. Klein  
19 C. Megan Fischer

20 WEIL, GOTSHAL & MANGES LLP

21 Joseph H. Smolinsky  
22 Brianna N. Benfield  
23 Attorneys for Motors Liquidation Company  
24 (f/k/a General Motors Corporation)  
25  
26  
27  
28



**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. FACTUAL SUMMARY**

On June 1, 2009, Defendant General Motors Corporation (n/k/a Motors Liquidation Company) ("MLC") commenced a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the Bankruptcy Court for the Southern District of New York. The MLC bankruptcy case has been assigned case number 09-50026 (REG). On July 10, 2009, General Motors Corporation consummated the sale of substantially all of its assets to NGMCO, Inc. (n/k/a General Motors, LLC), a United States Treasury-sponsored purchaser, pursuant to that certain Amended and Restated Master Sale and Purchase Agreement ("MSPA"). Simultaneous with closing on the MSPA, General Motors Corporation changed its name to Motors Liquidation Company.

Although the allegations in the instant adversary complaint are somewhat unclear, they may be summarized as follows: Sometime after the commencement of MLC's chapter 11 case, the debtor in this matter, John Lewis Mealer ("Mr. Mealer") commented about General Motors Corporation's bankruptcy filing on some sort of blog sponsored or maintained by the *Automotive News* magazine. It appears that Mr. Kris J. Kordella ("Mr. Kordella"), an engineer employed by General Motors Corporation at that time, happened to see Mr. Mealer's comments. Upon seeing Mr. Mealer's comments, Mr. Kordella made his own observations in response to Mr. Mealer's comments. Mr. Mealer claims that Mr. Kordella's comments were tortious, and alleges that they give rise to a variety of claims stated in the adversary proceeding. As discussed further below, none of those allegations, however, state claims for relief that are plausible on their face. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556-7, 127 S.Ct. 1955, 167 L.Ed. 2d 929 (2007) (complaint must state a claim for relief that is "plausible on its face").

**II. APPLICABLE LAW**

**A. The Adversary Complaint is Void for Violating the Automatic Stay**

To the extent Mr. Mealer seeks damages from MLC, this adversary proceeding should be dismissed as to MLC for violating the automatic stay in place as a

1 result of MLC's bankruptcy. Specifically, 11 U.S.C. section 362(a)(3) prohibits "any act to  
2 obtain possession of property of the estate or of property from the estate or to exercise  
3 control over property of the estate." When an entity files a bankruptcy petition, the  
4 automatic stay is effective immediately and any proceedings filed after the stay takes effect  
5 are void. E. Refractories Co. Inc. v. Forty-Eight Insulations Inc., 157 F.3d 169, 172 (2d Cir.  
6 1998) (citing Rexnord Holdings, Inc. v. Bidemann, 21 F.3d 522, 527 (2d Cir. 1994); 48th  
7 St. Steakhouse, Inc. v. Rockefeller Group, Inc. (In re 48th St. Steakhouse, Inc.), 835 F.2d  
8 427, 431 (2d Cir. 1987)); Hearst Magazines v. Geller, 2009 U.S. Dist. LEXIS 30481, at \*3  
9 (S.D.N.Y. Mar. 24, 2009). "Moreover, since the bankruptcy stay is automatic, '[t]he action  
10 is void even where the acting party had no actual notice of the stay.'" Id. (quoting Dalton v.  
11 New Commodore Cruise Lines Ltd., 2004 U.S. Dist. LEXIS 2590, at \*2 (S.D.N.Y. Feb. 24,  
12 2004). "Contempt proceedings are the proper means of compensation and punishment for  
13 willful violations of the automatic stay." Maritime Asbestosis Legal Clinic v. LTV Steel Co.  
14 (In re Chateaugay Corp.), 920 F.2d 183, 186-87 (2d Cir. 1990); see also Fidelity Mortgage  
15 Investors, 550 F.2d at 51, 57 (Bankruptcy Act case allowing imposition of costs, including  
16 reasonable attorney's fees under civil contempt powers for acts taken with "knowledge" of  
17 automatic stay and "deliberate[]" disregard of bankruptcy rules regarding requirements for  
18 relief), *cert. denied*, 429 U.S. 1093 (1977); see also Johns-Manville Sales Corp., v. Doan  
19 (In re Johns-Manville Corp.), 26 B.R. 919, 922 (Bankr. S.D.N.Y. 1983) (finding respondent  
20 who sought to continue judicial proceedings against debtor after debtor filed its petition for  
21 bankruptcy in contempt because respondent "clearly recognized the intended prohibitory  
22 effect of the automatic stay . . . and nonetheless [] proceed[ed] in willful and flagrant  
23 disregard of the[] stay orders").

24 By filing the adversary proceeding seeking damages from MLC, Mr. Mealer  
25 violated the automatic stay. Mr. Mealer was aware of MLC's bankruptcy, yet proceeded  
26 with an action seeking damages from MLC outside of MLC's chapter 11 case. Such  
27 conduct constitutes a willful violation of the automatic stay for which Mr. Mealer could be  
28 sanctioned and held in contempt of court. Accordingly, MLC respectfully requests that this

1 Court declare Mr. Mealer's adversary proceeding void for violating the automatic stay and  
2 dismiss the adversary proceeding without prejudice to Mr. Mealer's right to file a claim, if  
3 any, in MLC's bankruptcy case in the Southern District of New York.

4 **B. Mr. Mealer Lacks Standing to Bring the Instant Adversary Proceeding**

5 Mr. Mealer has no standing to bring the instant adversary proceeding  
6 because his standing was transferred to an appointed trustee when he filed for chapter 7  
7 bankruptcy. The Bankruptcy Code establishes that the trustee is the "representative of the  
8 estate" and thus "has the capacity to sue and be sued." 11 U.S.C. § 323. In Estate of  
9 Spirito v. One San Bernardino County Super. Ct., the Ninth Circuit held that "11 U.S.C. §  
10 323 vests the bankruptcy trustee with the exclusive right to sue on behalf of the bankruptcy  
11 estate." 443 F.3d 1172, 1174 (9th Cir.2006) (finding that a creditor of a bankruptcy estate  
12 does not have standing to file a complaint on behalf of the estate unless permission from  
13 the trustee is obtained) (emphasis added). Additionally, the court in In re Eisen found that  
14 a chapter 7 debtor had no standing to sue because when a chapter 7 trustee was  
15 appointed, he was vested with all of the debtor's causes of action. 31 F.3d 1447, 1451 n. 2  
16 (9th Cir.1994) (finding that "as trustee, Moneymaker is vested with Eisen's [the debtor's]  
17 causes of action, rendering Eisen with no standing to appeal").

18 Only if a trustee abandons a claim does a debtor regain standing to bring that  
19 claim. Catalano v. Comm'r of Internal Revenue, 279 F.3d 682, 685 (9th Cir.2002). Proper  
20 abandonment requires that the trustee give all creditors notice of his intent to abandon a  
21 claim. Specifically, 11 U.S.C. section 554(a) states, "[a]fter notice and a hearing, the  
22 trustee may abandon any property of the estate that is burdensome to the estate or that is  
23 of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a). Fed. R. Bankr.P.  
24 6007 implements § 554 by adding, "the trustee ... shall give notice of a proposed  
25 abandonment or disposition of property to ... all creditors ..." Fed. R. Bankr.P. 6007 (2006-  
26 2007). The Ninth Circuit has therefore found that "there is no abandonment without notice  
27 to creditors." Sierra Switchboard Co. v. Westinghouse Elec. Corp., 789 F.2d 705, 710 (9th  
28 Cir.1986) (holding that trustee had not abandoned an emotional distress claim to the

1 debtor because "[n]othing in the record indicates that creditors were notified of the  
2 trustee's intent to abandon ...").

3 Mr. Mealer alleges that the incident underlying the instant adversary  
4 proceeding occurred on June 9, 2009, prior to the commencement of Mr. Mealer's chapter  
5 7 bankruptcy case. Accordingly, the cause of action is property of the chapter 7 estate.  
6 Indeed, this lawsuit is noted at item 35 of Mr. Mealer's Amended Schedule B, listing  
7 personal property of the estate. [Docket No. 23]. There is no record in this chapter 7 case  
8 that the trustee has provided any notice of its intent to abandon the instant cause of action.  
9 Accordingly, the trustee retains the exclusive right to pursue this action on behalf of the  
10 estate and this adversary proceeding should be dismissed due to Mr. Mealer's lack of  
11 standing to sue. Moreover, if the trustee did abandon this action, then it is not estate  
12 property and Mr. Mealer cannot invoke the Bankruptcy Court's jurisdiction over his lawsuit.  
13 See, In re Conway, 1994 WL 617253, at \*2 (Bankr. E.D. Cal 1994) ("The law is clear that  
14 once property leaves the bankruptcy estate, the court loses jurisdiction over that  
15 property.") (citing, In re Hall's Motor Transport Co., 889 F.2d 520, 523 (3rd Cir.1989);  
16 Matter of Xonics, Inc., 813 F.2d 127, 131 (7th Cir.1987).

17 **C. The Adversary Complaint Fails to State a Claim Upon Which Relief Can**  
18 **be Granted**

19 In considering a Motion to Dismiss under Federal Rule of Civil Procedure  
20 12(b)(6), the Court should accept the plaintiff's "factual allegations" as true, drawing all  
21 reasonable inferences in Mr. Mealer's favor. Anderson v. Clow, 89 F.3d 1399, 1403 (9th Cir.  
22 1996). Conclusory allegations and legal conclusions, however, should be disregarded.  
23 Ashcroft v. Iqbal, 556 U.S. \_\_\_, 129 S.Ct. 1937, 173 L.Ed. 2d 868, 884 (2009). Thus, while  
24 for purposes of this motion, "well pleaded factual allegations" are accepted as alleged, "bald  
25 assertions, subjective characterizations, and legal conclusions" should be disregarded.  
26 Moore's Federal Practice (3d Ed.) § 12.34[1][b] at p. 12-81 (2010).

27 The Court in Iqbal created a road map to aid courts in determining when a  
28 litigant has sufficiently stated a claim. The first step in the analysis is to identify any

1 conclusory pleadings. Id. at 1950. Pleadings that are factually or legally conclusory are  
2 not entitled to a presumption of truth and must be supported by well-pled factual  
3 allegations. Id. "Threadbare recitals of the elements of a claim, supported by mere  
4 conclusory statements, do not suffice." Id. at 1949 (citing Twombly, 550 U.S. at 555).  
5 Where a pleading contains well-pled factual allegations, the second step in the analysis is  
6 to "assume their veracity and determine whether they plausibly give rise to an entitlement  
7 to relief." Id. at 1950. "A claim has facial plausibility when the plaintiff pleads factual  
8 content that allows the court to draw the reasonable inference that the defendant is liable  
9 for the misconduct alleged." Id. at 1949. The Court went on to state that the standard for  
10 plausibility "is not akin to a 'probability requirement,' but it asks for more than a sheer  
11 possibility that a defendant has acted unlawfully." Id. (citing Twombly, 550 U.S. at 556).

12 Applying this test to the facts in Iqbal, the Court determined that plaintiff had  
13 not "nudged his claims of invidious discrimination across the line from conceivable to  
14 plausible." Id. at 1950–51. The Court found that formulaic recitation of the elements of a  
15 constitutional discrimination claim did not trigger an presumption of truth. Id. at 1951. For  
16 instance, the Court determined that the following statements were conclusory: "Ashcroft  
17 was the 'principal architect'" and that "petitioners 'knew of, condoned, and willfully and  
18 maliciously agreed to subject [him]' to harsh conditions . . . , solely on account of [his]  
19 religion, race, and/or national origin . . . ." Id.

20 The Ninth Circuit Court of Appeals has embraced and applied the  
21 Iqbal/Twombly standard. See Moss v. U.S. Secret Serv., 572 F.3d 962, 969 (9th Cir.  
22 2009) (quoting Iqbal, 129 S. Ct. at 1949) ("In sum, for a complaint to survive a motion to  
23 dismiss, the non-conclusory 'factual content,' and reasonable inferences from that content,  
24 must be plausibly suggestive of a claim entitling the plaintiff to relief."); see also Longariello  
25 v. Phoenix Union High Sch. Dist., CV-09-1606-PHX-LOA, 2009 WL 4827014, \*2 (D. Ariz.  
26 Dec. 15, 2009).

27 Applying the Iqbal/Twombly standard to Mr. Mealer's adversary complaint  
28 necessitates dismissal of the Adversary Complaint for failure to state a plausible claim.

1 Taken in the order that they appear in the Adversary Complaint, Mr. Mealer's assertions  
2 are insufficient to state a claim for which relief can be granted for the following reasons:

3 **"I. Jurisdiction and Venue"**

4 This paragraph is nothing but a string cite of statutes and rules asserting that  
5 this Court has jurisdiction. As noted above, if the trustee abandoned this cause of action,  
6 then the Bankruptcy Court no longer has jurisdiction over it.

7 **"II. Claim Summary"**

8 This paragraph contains nothing more than bald assertions with no specific  
9 facts and no allegation that Mr. Kordella was acting in the scope of his employment when he  
10 responded to Mr. Mealer's blog post.

11 **"III. Defendants' Lack of Authority and Precedence"**

12 Mr. Mealer confuses parties, lumping together GMAC Mortgage, LLC, the  
13 creditor that owns a note and deed of trust on Mr. Mealer's personal residence dated  
14 February 13, 2008, with the other defendants named in the adversary complaint. This  
15 paragraph contains no specific factual allegations to support a conclusion that all of the  
16 defendants should be treated as the same.

17 **"IV. Creditors Breach of Duty to Protect Debtor"**

18 This paragraph seems to focus only on GMAC Mortgage, LLC, and, therefore,  
19 contains no claims against the defendants who are making this motion. The paragraph also  
20 appears to be based upon the bald assertion that GMAC Mortgage, LLC, "earmarked" some  
21 payments from Mr. Mealer and used them to pay the "Internet Service Provider ("ISP")  
22 registration fees" that allowed Mr. Kordella access to the internet. Without some specific facts  
23 to support these bald assertions, they must be disregarded. This allegation is simply ridiculous.

24 **"V. Premises: Cause of Action"**

25 This section contains the following bald assertions or subjective  
26 characterizations that should be disregarded:

27 (1) That Kris J. Kordella was the "defendants' agent." No specific facts are  
28 alleged to establish that Mr. Kordella was acting as an agent for any of the defendants. No

1 specific facts are alleged to indicate that Mr. Kordella was acting in anything other than his  
2 own individual capacity.

3 (2) Mr. Mealer alleges that Mr. Kordella accessed the internet "with intent to  
4 strategically sabotage, whether by and through direction of management or strictly through  
5 respondeat superior contributory and comparative negligence originating while at work under  
6 General Motors Corporation roof yet subordinate to the GMAC/(fs) owned Internet Service  
7 Provider's ("ISP") . . . ." This allegation is not only a bald assertion, but uses a string of legal  
8 jargon which, taken together, makes no sense.

9 (3) The remainder of this section is a rambling collection of bald assertions  
10 and legal conclusions.

11 (4) There are only two "facts" contained in this entire section: that Mr.  
12 Kordella accessed Mr. Mealer's website on June 9, 2009 around 11:00 a.m., and Mr.  
13 Mealer's website contains a statement that he is "gathering funding to begin full scale funding  
14 of our automobile . . . ." Those two facts, standing alone, do not give rise to any claim for  
15 relief. Everything beyond those two facts consists of Mr. Mealer's subjective  
16 characterizations, bald assertions, and conclusory allegations, none of which are sufficient to  
17 state a claim.

18 **"VI. Defendants' Unclean Hands, Annotated Exhibits"**

19 This sections contains the following unsubstantiated allegations:

20 (1) That "GM-GMAC" accessed Mr. Mealer's professional business website  
21 URL on June 9, 2009. The only fact alleged in the adversary proceeding is that Mr. Kris  
22 Kordella posted a message on that date and did so using his "gm.com" address. Mr. Mealer  
23 alleges no facts to support a conclusion that Mr. Kordella was acting as an agent for MLC or  
24 any other General Motors entity and, therefore, there is no plausible basis to conclude that  
25 the adversary complaint states a valid claim.

26 (2) Mr. Mealer refers to Mr. Kordella's comments as "grossly disparaging,"  
27 which, by definition, is his subjective characterization and does not, by itself, give rise to any  
28 valid claim.

1 (3) The remainder of this section alleges that the "gm.com" address  
2 belongs to General Motors which does not, by itself, establish that anyone using an address  
3 ending with the "gm.com" designation has authority to speak on behalf of MLC or any other  
4 General Motors corporate entity.

5 **"VII. Defendants' Defamatory Assault"**

6 This section of the adversary complaint quotes from Mr. Kordella's message  
7 and provides dictionary definitions of the terms used by Mr. Kordella. Although the caption for  
8 this section of the complaint refers to "defamation," this section falls well short of alleging  
9 facts to support a claim for defamation.

10 In order to properly plead a cause of action for defamation, Mr. Mealer needs to  
11 allege facts that support the following: (1) someone made a false and defamatory statement  
12 concerning Mr. Mealer; (2) there was an unprivileged publication of that statement to a third  
13 party; (3) fault amounting at least to negligence on the part of the publisher; and (4) either  
14 actionability of the statement irrespective of special harm or the existence of special harm  
15 caused by the publication." Restatement (Second) of Torts § 558 (1977). According to  
16 Arizona law, defamatory statements "must be false and must bring the defamed person into  
17 disrepute, contempt, or ridicule, or must impeach plaintiff's honesty, integrity, virtue, or  
18 reputation." Godbehere v. Phoenix Newspapers, Inc., 162 Ariz. 335, 341, 783 P.2d 781, 787  
19 (1989). Thus, harm is a special requirement of the tort of defamation in Arizona.

20 Whether the statements Mr. Kordella allegedly made about Mr. Mealer are  
21 false or defamatory is not relevant to this motion. What is relevant is that Mr. Mealer has  
22 alleged no specific facts to support at least one of the other critical elements of a claim for  
23 defamation.

24 Specifically, Mr. Mealer alleges no specific facts establishing that Mr. Mealer  
25 sustained any harm as a result of the statements allegedly made by Mr. Kordella. Elsewhere  
26 in the adversary complaint, Mr. Mealer asserts that he has not been able to obtain funding for  
27 his business venture, but he alleges no specific facts linking Mr. Mealer's inability to obtain  
28 that funding to any of the statements allegedly made by Mr. Kordella.



1 Moreover, as noted above, Mr. Mealer has alleged no facts to support a  
2 conclusion that any of the other defendants named in the adversary complaint directed or are  
3 in any way responsible for any comments allegedly made by Mr. Kordella. When the  
4 adversary complaint is stripped down to its bare facts, all Mr. Mealer has alleged is that he  
5 and Mr. Kordella had a brief email exchange. That does not give rise to a cause of action  
6 against MLC or any of the other named defendants.

7 **"VIII. Blatant Intentions of Defendant, *Mens Rea*"**

8 This section of the adversary complaint contains Mr. Mealer's subjective  
9 characterizations of how the moniker "MONEY01" could be interpreted. Based on Mr.  
10 Mealer's subjective characterizations, he asserts that he has experienced "extreme duress"  
11 and draws other conclusions. He does not allege any specific facts to support his  
12 conclusions, however.

13 **"IX. Admission of Guilt by GM-GMAC"**

14 This section begins by characterizing an apology Mr. Kordella sent to Mr.  
15 Mealer as "half-hearted," "disappointing," and "insolent." These terms constitute subjective  
16 characterizations by Mr. Mealer. He then makes bald assertions, with no facts alleged to  
17 support them, that somehow, Mr. Kordella's communications created "public and private  
18 doubt of Plaintiff" which "destroyed prospective capital B-Growth funds to be used for  
19 business expansion and Plaintiff's economic growth and ability to cover mortgage payments."  
20 Without some facts to substantiate these assertions and conclusions, this section does not  
21 state any valid claim.

22 **"X. Compensatory Damages"**

23 In this section, Mr. Mealer alleges that there were "multiple qualified investors"  
24 who were "completing their due diligence investigations" of Mr. Mealer's company who then  
25 "abruptly ended" their investigations because "Defendant" "publically humiliated" Mr. Mealer.  
26 Mr. Mealer, however, never identifies a single one of the "multiple qualified investors," nor  
27 does he allege any specific facts to support his assertion and conclusion that they were doing

28 ///

1 due diligence investigations of Mr. Mealer's company, and that they "abruptly ended" those  
2 investigations because of anything any of the named defendants did.

3 **"XI. Memorandum and Defendants' Violations of Law, Actus Reas"**

4 In this section, Mr. Mealer alleges various torts, including intentional  
5 interference with prospective economic advantage, breach of privacy, and restraint of trade.  
6 All of these amount to more legal conclusions and bald assertions based not on facts but on  
7 the alleged "defamation" addressed in preceding paragraphs. Without any actual facts  
8 proving the critical elements of causation and harm arising from Mr. Kordella's statements,  
9 the rest of Mr. Mealer's meanderings cannot rise to the level of stating a valid claim against  
10 any of the defendants.

11 **"XII. Plaintiff's Argument"**

12 In this section, Mr. Mealer cites a number of federal statutes without alleging  
13 any facts to explain how any of those statutes are related to his case. Nowhere, for example,  
14 does he explain how emails from Mr. Kordella could be characterized as "securities fraud."

15 **"XIII. Enjoined Motion for Evidentiary Hearing Concerning Gross  
16 Creditor Misconduct"**

17 This section is essentially a request for a hearing and a plea that this Court not  
18 take up GMAC Mortgage, LLC's motion for relief from the automatic stay. Because Mr.  
19 Mealer's adversary complaint has failed to state a claim for relief, there is no reason why the  
20 Court needs to schedule a hearing on it.

21 **"XIV. Conclusion"**

22 In this section, Mr. Mealer asks for a variety of relief, including denying GMAC  
23 Mortgage, LLC's motion to lift automatic stay, discharging Mr. Mealer's mortgage debt, and  
24 otherwise finding in Mr. Mealer's favor on a variety of legal theories asserted in the adversary  
25 complaint but not supported by the necessary factual allegations.

26 ///

27 ///

28 ///

1 **III. CONCLUSION**

2 For the foregoing reasons, Motors Liquidation Company requests that the Court grant  
3 this motion and dismiss plaintiff's adversary complaint with prejudice.

4 Dated this 29<sup>th</sup> day of April, 2010.

5 BOWMAN AND BROOKE LLP

6  
7 By: /s/ C. Megan Fischer

8 Thomas M. Klein  
9 C. Megan Fischer

10 WEIL, GOTSHAL & MANGES LLP

11 Joseph H. Smolinsky  
12 Brianna N. Benfield  
13 Attorneys for Motors Liquidation Company  
14 (f/k/a General Motors Corporation)  
15  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 29th day of April, 2010, I caused the attached MOTION OF MOTORS LIQUIDATION COMPANY (F/K/A GENERAL MOTORS CORPORATION) TO DISMISS ADVERSARY COMPLAINT, AND MEMORANDUM OF POINTS AND AUTHORITIES to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing and service to the following:

John Lewis Mealer, Pro Per  
6333 Gardenia Lane  
Show Low, Arizona 85901  
[jmealer@mealercompanies.com](mailto:jmealer@mealercompanies.com)  
Plaintiff

A courtesy copy of the foregoing was sent via email to the following:

Yaron Shaham, Esq.  
WOLFE & WYMAN LLP  
5 Park Plaza, Suite 1100  
Irvine, CA 92614-5979  
[yshaham@wolfewyman.com](mailto:yshaham@wolfewyman.com)  
Attorneys for GMAC Mortgage, LLC

Lawrence J. Warfield, Esq.  
P.O. Box 14647  
Scottsdale, Arizona 85267  
[lwarfield@warfieldcpas.com](mailto:lwarfield@warfieldcpas.com)  
Trustee

/s/ D. Schwartz

## **EXHIBIT ‘I’**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA

In re:

JOHN LEWIS MEALER CH: 7 2:09-BK-24899-RTB

1) JOHN LEWIS MEALER vs GMAC MORTGAGE,  
LLC. & GENERAL MOTORS CORP. &  
GENERAL MOTORS CO. & MOTORS  
LIQUIDATION CO. & RESIDENTIAL  
CAPITAL LLC & KRIS J CORDELLA &  
CHRISTY GARWOOD & GMAC FINANCIAL  
SERVICES AKA GMAC, INC. &  
RESIDENTIAL CAPITAL, LLC & GMAC  
MORTGAGE, LLC

ADV: 2-10-00503

MOTION TO DISMISS ADVERSARY  
PROCEEDING FILED BY GENERAL MOTORS  
CO.

ADV: 2-10-00503

2) JOHN LEWIS MEALER vs GMAC MORTGAGE,  
LLC. & GENERAL MOTORS CORP. &  
GENERAL MOTORS CO. & MOTORS  
LIQUIDATION CO. & RESIDENTIAL  
CAPITAL LLC & KRIS J CORDELLA &  
CHRISTY GARWOOD & GMAC FINANCIAL  
SERVICES AKA GMAC, INC. &  
RESIDENTIAL CAPITAL, LLC & GMAC  
MORTGAGE, LLC

MOTION TO DISMISS ADVERSARY  
PROCEEDING FILED BY MOTORS  
LIQUIDATION

U.S. Bankruptcy Court  
230 N. First Avenue, Suite 101  
Phoenix, AZ 85003-1706

June 2, 2010  
11:02 a.m.

BEFORE THE HONORABLE REDFIELD T. BAUM SR., Judge

APPEARANCES:

For GMAC Mortgage LLC, and  
Residential Capital, LLC:

Colt B. Dodrill (Telephonic)  
WOLFE & WYMAN LLP  
980 Kelly Johnson Drive  
Suite 140  
Las Vegas, NV 89119

Pro Se Plaintiff:

John Lewis Mealer  
6333 Gardenia Lane  
Show Low, AZ 85901

For Motors Liquidation Co.  
and GM Company:

Thomas Klein  
BOWMAN AND BROOKE LLP  
2901 N. Central Ave., Suite 1600  
Phoenix, AZ 85012

Proceedings recorded by electronic sound technician, Juanita  
Pierson-Williams; transcript produced by AVTranz.



1 THE CLERK: All rise.

2 THE COURT: Be seated, please.

3 THE CLERK: In the case of 09:24899, John Mealer,  
4 Adversary 10-503.

5 MR. DODRILL: good morning. This is Colt Dodrill for  
6 Defendant GMAC Mortgage, LLC, Residential Cap, LLC.

7 MR. MEALER: This is John Mealer, or I'm John Mealer.

8 MR. KLEIN: Good morning. I'm Tom Klein. I'm here  
9 on behalf of Motors Liquidation Company, also known as the Old  
10 GM and General Motors Company, also known as the new GM.

11 THE COURT: So that really thoroughly confused me.  
12 Whose motion to dismiss is it on behalf of GM?

13 MR. KLEIN: There are three motions to dismiss: On  
14 the phone, GMAC filed a motion to dismiss; on behalf of Motors  
15 Liquidation Corporation, I filed a motion to dismiss; and on  
16 behalf of GM Company, I filed a motion to dismiss.

17 THE COURT: All right. Who wants to go first?

18 MR. KLEIN: If I may, Your Honor. I know you've got  
19 a busy docket. Have you had a chance to review the adversary  
20 complaint and the motions?

21 THE COURT: I have.

22 MR. KLEIN: All right. I'll be very brief, then.  
23 I'll just add one point on the part of the motion that started  
24 at the substance or lack of substance of the complaint, and  
25 just emphasize the Iqbal, I-Q-B-A-L, case from U.S. Supreme



1 Court last year. Mr. Iqbal was stopped by TSA at an airport  
2 and was convinced that it was all part of the conspiracy  
3 masterminded by John Ashcroft at the top down through the  
4 Justice Department to target people of Arabic descent at  
5 airports. And the U.S. Supreme Court said, basically, "You may  
6 have a firm conviction that that's why you were stopped, but  
7 you need some evidence to support that, some objective facts to  
8 support that." And I think that case applies well to the facts  
9 alleged by Mr. Mealer.

10 I suspect that I probably could not convince  
11 Mr. Mealer that there was not some conspiracy against him;  
12 however, there are no facts to support it, just as there were  
13 no facts to support Mr. Iqbal's complaint that there is some  
14 conspiracy here. And without those facts the claim should be  
15 dismissed.

16 THE COURT: Let me ask you a question. Assuming I  
17 were to agree with you, I would assume I would have to grant  
18 the motion with leave to amend, set a deadline to do that.

19 MR. KLEIN: You could do that but the other --

20 THE COURT: I understand that Ninth Circuit law  
21 compels me to do that.

22 MR. KLEIN: As a practical matter, though, there are  
23 the other two issues we raised, which is: Mr. Mealer lacks  
24 standing to bring the claim in the first instance; and as to my  
25 two clients, first as to Motors Liquidation Company, there's a

1 stay in effect pursuant to the Chapter 11 proceedings that are  
2 still ongoing in the Southern District of New York Bankruptcy  
3 Court. So the suggestion would be if you grant the motion with  
4 leave to amend, that it should also indicate that the -- the  
5 claim ought to be as to MLC void as a matter of law because it  
6 violates the stay in the Chapter 11 proceeding.

7 As to my other client, General Motors Company, the  
8 new GM, the asset sale order entered by the Judge in New York  
9 specifically holds that there is no successor liability. So  
10 there is no valid claim against the new GM for anything that  
11 happened prior to July 9th of 2009. The District Court -- or  
12 excuse me, the Bankruptcy Court there, Judge Gerber, retained  
13 exclusive jurisdiction to interpret specifically that provision  
14 of his order. So to the extent that there's a question about  
15 whether a valid claim could be made against the new GM, that  
16 decision should be made by Judge Gerber in New York. And so if  
17 there's an amended complaint filed, it should be filed in New  
18 York so Judge Gerber can rule on that.

19 THE COURT: All right.

20 MR. DODRILL: Your Honor, if I may, Colt Dodrill for  
21 GMAC Mortgage, LLC. We're the lenders in this case that really  
22 have no connection to the alleged defamation the Plaintiff  
23 alleges in his adversary complaint. It seems any amendment,  
24 whether he's allowed under Rule 15 or under Rule 8, would be  
25 futile as against the lender on his real property.

1           This -- he alleges no origination-based claims, and  
2           as counsel stated, he's still lacks the standing because the  
3           events on which his claims are based arose pre-petition.  
4           Therefore, the claims, if at all, need to be raised by Mr.  
5           Mealer's Chapter 7 trustee. So I think futility would tell us  
6           that his amendments need not -- he need not be allowed leave to  
7           amend.

8           THE COURT: Mr. Mealer?

9           MR. MEALER: Your Honor --

10          THE COURT: I think you and I have had this  
11          discussion before about you need a lawyer and some resources,  
12          to do that, right?

13          MR. MEALER: It appears that way. But I can't seem  
14          to get a lawyer to take this because the case has already  
15          started. That's what I've been hearing.

16          And I believe that these crimes were committed by  
17          GMAC and GM prior to my bankruptcy which caused my bankruptcy,  
18          which created the ability for me not to be able to pay my  
19          mortgage, and that is gross Creditor misconduct. I mean, it's  
20          so blatant it -- it --

21          THE COURT: I have to tell you, sir, that at least as  
22          to the two entities that are the result of the bankruptcy of  
23          the General Motors Company have some pretty serious doubts that  
24          right now you can pursue those claims in this court even  
25          assuming you had valid claims. I mean, one of them was

1 essentially a sale free and clear that -- if I remember  
2 correctly, some of the issues related to that went all the way  
3 up to the U.S. Supreme Court, that that order has been upheld  
4 by -- I guess it would be the Second or Third Circuit your cert  
5 was denied; although a brief stay was entered by the U.S.  
6 Supreme Court. Then if the surviving entities, Motors  
7 Liquidation, is still subject to an automatic stay you can't  
8 pursue a claim against them, just like somebody couldn't pursue  
9 a claim against you in your bankruptcy other than in that  
10 court.

11 MR. MEALER: Your Honor, what I've -- you know, as a  
12 pro se complaintant (sic) here, what I found is Title 11, 503,  
13 it's in my paperwork, if there's a crime committed by GM  
14 regardless of if they change their name or declare bankruptcy,  
15 I have a valid claim. I've entered the GM bankruptcy court  
16 with my petition. I've petitioned GM, and it appears that the  
17 Honorable Judge in --

18 THE COURT: Gerber?

19 MR. MEALER: -- with the MLC bankruptcy is allowing  
20 me to come back into court once I have verification that these  
21 crimes were committed.

22 THE COURT: Now, let me -- let me tell you one thing:  
23 Crimes, in the legal sense, are not the province or a  
24 jurisdiction of this Court.

25 MR. MEALER: Okay.

1 THE COURT: Is there civil claims?

2 MR. MEALER: Yes, sir.

3 THE COURT: All right.

4 MR. MEALER: But Creditor misconduct, I assumed was  
5 part of the bankruptcy court because that's what put me here,  
6 and the very Creditor that has interest in the competitive  
7 automotive company, GM against Mealer Companies, they shut me  
8 down. They put me here. And the --

9 THE COURT: Well, again, one of the different --  
10 difficulties, as I see it, is that, in a simple sense, all of  
11 those dealer issues are -- have been or are being litigated in  
12 that court, not this court.

13 MR. MEALER: Yes, sir. Yes, sir. That -- that court  
14 is -- well, GM exists today. They existed before.

15 THE COURT: Well, in a different legal capacity after  
16 some --

17 MR. MEALER: I don't think --

18 THE COURT: -- unusual and very significant  
19 proceedings in the bankruptcy court. Like I said --

20 MR. MEALER: Yes, sir.

21 THE COURT: -- in some respects it went all the way  
22 up to the U.S. Supreme Court.

23 MR. MEALER: Yes, sir.

24 From my standpoint as a layman, I don't see how a  
25 bankruptcy or a name change for a corporation allows them to

1 commit a crime. The crime is continuing today. GM is  
2 benefiting from it. GM is -- old GM, new GM, they're one in  
3 same. They've paid the same employees prior to the bankruptcy,  
4 their bankruptcy, and after to their -- excuse me -- after  
5 their bankruptcy. And they have not made one move to  
6 apologize, or remove their defamation, or -- or to do anything  
7 for the crimes, once again crimes, for the collusional work  
8 they done with GMAC.

9 I've got documentation. I've tried to submit it to  
10 the Court. I wanted an evidentiary hearing. I still would  
11 like that. I've got a signed apology from one of the people  
12 that actually blackened my name. And I'm doing what I can to  
13 get this into court. And, like I said, I can't get a lawyer  
14 that will take this because I've already started, and -- and  
15 that's where I'm at, Your Honor.

16 THE COURT: All right. Thank you.

17 Anything further from either of the movants?

18 MR. KLEIN: No, Your Honor.

19 MR. DODRILL: No, Your Honor.

20 THE COURT: All right.

21 As to Defendants, I'll call it new General Motors and  
22 the remaining old General Motors now known as Motors  
23 Liquidation Company, the Court is going to grant the motion to  
24 dismiss without leave to amend based on the orders entered by  
25 the bankruptcy court, and the injunctions or retention of

1 jurisdiction provisions therein.

2 The Court will grant the motion to dismiss as to  
3 GMAC, but will allow the Debtor 30 days to, if the Debtor so  
4 elects, to file and amend the complaint.

5 If the Debtor does that, the Court will review that  
6 independently to conclude whether or not a sufficient claim has  
7 been alleged to allow that case to pursue; i.e., I don't want  
8 GMAC to file a second motion to dismiss until the Court has had  
9 an opportunity to review that complaint.

10 Counsel for the respective movants may serve and  
11 lodge appropriate orders.

12 MR. KLEIN: Thank you.

13 MR. DODRILL: Thank you, Your Honor.

14 (Proceedings Concluded)

15

16

17 I certify that the foregoing is a correct transcript from  
18 the record of proceedings in the above-entitled matter.

19

20 Dated: February 9, 2011

21

22

23

24

25

  
AVTranz, Inc.  
845 N. 3rd Avenue  
Phoenix, AZ 85003

## **EXHIBIT “J”**





**Dated: June 03, 2010**

A handwritten signature in black ink, appearing to read "Redfield T. Baum", is written over a horizontal line.

**REDFIELD T. BAUM, SR**  
**U.S. Bankruptcy Judge**

Thomas M. Klein (010954)  
[tom.klein@bowmanandbrooke.com](mailto:tom.klein@bowmanandbrooke.com)  
C. Megan Fischer (019828)  
[megan.fischer@bowmanandbrooke.com](mailto:megan.fischer@bowmanandbrooke.com)  
**BOWMAN AND BROOKE LLP**  
Suite 1600, Phoenix Plaza  
2901 North Central Avenue  
Phoenix, Arizona 85012-2761  
(602) 643-2300  
(602) 248-0947 – Fax

Joseph H. Smolinsky  
Brianna N. Benfield  
**WEIL, GOTSHAL & MANGES LLP**  
767 Fifth Avenue  
New York, New York 10153  
(212) 310-8000  
(212) 310-8117 – Fax

Attorneys for Motors Liquidation Company (f/k/a General Motors Corporation)

**IN THE UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF ARIZONA**

In re:	)	Case No. 2:09-BK-24899-RTB
JOHN LEWIS MEALER,	)	Chapter 7
Debtor,	)	
_____	)	
JOHN LEWIS MEALER,	)	Adversary No. 2:10-AP-00503-RTB
Plaintiff,	)	
v.	)	<b>ORDER DISMISSING ADVERSARY</b>
GMAC Mortgage LLC, GMACfs,	)	<b>PROCEEDING AGAINST MOTORS</b>
GENERAL MOTORS CORP., GENERAL	)	<b>LIQUIDATION COMPANY (f/k/a</b>
MOTORS CO., MOTORS LIQUIDATION	)	<b>GENERAL MOTORS CORPORATION)</b>
CO., RESIDENTIAL CAPITAL LLC,	)	<b>WITHOUT LEAVE TO AMEND</b>
KRIS J. KORDELLA, CHRISTY	)	
GARWOOD, et al.	)	
Defendants.	)	
_____	)	

The Court, having heard arguments and considered the pleadings;

///

///

1 IT IS ORDERED dismissing Motors Liquidation Company (identified in the adversary  
2 complaint as "Motors Liquidation Co."; f/k/a General Motors Corporation) without leave to  
3 amend, each party to bear its own fees and costs.

4 DONE this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

5  
6 Honorable Redfield T. Baum  
7 Judge, U.S. Bankruptcy Court  
8 District of Arizona  
9  
10  
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27  
28

## **EXHIBIT “K”**

# EXHIBIT A

John Lewis Mealer, Pro Per  
6333 Gardenia Lane  
Show Low, Arizona 85901  
jlmealer@mealercompanies.com

ORIGINAL

2010 JUN -8 PM 3:50

DOCKETED BY SP  
CLERK SUPERIOR COURT  
NAVAJO COUNTY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF NAVAJO

JOHN LEWIS MEALER

PLAINTIFF

VS

GMAC MORTGAGE LLC, GMAC  
FINANCIAL SERVICES, GENERAL  
MOTORS CORPORATION., GENERAL  
MOTORS COMPANY., MOTORS  
LIQUIDATION COMPANY, RESIDENTIAL  
CAPITAL LLC, UNITED STATES  
TREASURY DEPARTMENT, GM  
ENGINEER KRIS J KORDELLA, JANE  
DOE, JOHN DOE, et al.

DEFENDANTS

CASE CV2010 00316

CIVIL COMPLAINT FOR TORT CRIMES

JURY TRIAL DEMANDED

### JURISDICTION

This case involves intentional and ongoing tort violations by the defendants against this plaintiff which have created a claim in excess of \$50,000 and falls within the jurisdiction of the State of Arizona Navajo Superior Court where the damages to this Arizona and Navajo county resident John Lewis Mealer and his Arizona, Navajo County based alternative fuel powered automaker business had occurred on June 9<sup>th</sup>, 2009 and continue to occur to date. This honorable court has jurisdiction in these matter under Article 6, Sections 5 and 14 of the Arizona Constitution, and ARS Title 44, Chapter 10 and other laws pertaining to this instant case.

**CASE SUMMARY**

**Comes Now the Plaintiff John Lewis Mealer with good cause submitting this complaint and lawsuit against Defendants; GMAC Mortgage LLC, GMACfs, General Motors Corporation, General Motors Company, Motors Liquidation Company, Residential Capital LLC, United States Treasury Department, General Motors Engineer, employee and agent Mr. Kris J Kordella, General Motors employees and agents Jane Doe and John Doe and other key aforementioned corporation's employees and agents to be discovered during discovery disclosure in this instant case.**

**The charges and allegations of this instant case on the part of GMAC Mortgage LLC and GMACfs (herein called "GMAC") which resulted from the intentionally crafted, strategically worded Internet defamation as gross libel per se which was maliciously placed upon this plaintiff's business website by General Motors engineers on June 9<sup>th</sup>, 2009 by and through the Internet Service Provider ("ISP") which is owned, located, registered to and secured within the GMAC corporate headquarters at 200 Renaissance Center Detroit, Michigan in their malicious effort and real-life actuality to inflict as much damage as possible and to prevent plaintiff from gathering B-Round expansion funding for domestic manufacturing the Mealer Automobile for domestic and global sales.**

**This Plaintiff is the founding member (and patent holder) to Mealer Companies LLC which is an Arizona LLC registered on 9/19/08 to build alternative fuel powered automobiles, with the Arizona Corporation Commission Number L-1477212-5, Internal Revenue Service Employer ID 26-3359384.**

**GMAC is the main creditor and private home mortgage holder (Mortgage No. 0602003923) for this plaintiff and coincidentally, the main creditor of General Motors (herein**

1 called "GM") whereby GMAC holds a publicly proclaimed interest in the survivability and  
2 viability of their preferred creditor and competitive automaker (to plaintiff) "GM".

3 GMAC provided access to and "held open the Internet doorway" for the tortuous crimes  
4 noted herein to be committed upon this plaintiff and in order for these crimes to continue and are  
5 thus culpable as respondeat superior of GM and GM's engineers and public relations  
6 (professional Bloggers for GM) who 'punched the keys' and spelled out the exact libel which  
7 created the far reaching and irreversible financial and future business and other emotional-related  
8 damages to this plaintiff, his business and his family.

9 GM engineers, specifically Kris J Kordella while at work, hunted down plaintiff and  
10 entered plaintiff's professional and Mealer Automobile investment oriented website  
11 ("<http://mealercompanies.com>") on June 9<sup>th</sup>, 2009 with the intentions to destroy and blacken  
12 plaintiff's good name and hinder plaintiff from gathering expansion B-Round growth funding for  
13 the MEALER AUTOMOBILE and Mealer Companies LLC which is an Arizona registered  
14 alternative fuel and automobile manufacturing company as of September 19<sup>th</sup>, 2008.

15 GM engineer, Mr. Kordella, acted in concert with at least two other "GM" employees  
16 working in what appears to be the Public Relations department of GM, who appear to be  
17 "professional Bloggers" for defendants. "GM" is culpable as respondeat superior of their  
18 employee(s) specifically Kris J Kordella for the carefully and maliciously planned and executed  
19 series of crimes creating intentional anti-competitive behavior and other tort violations detailed  
20 herein. Furthermore, neither bankruptcy nor corporate or private name change of these defendant  
21 parties creates an excuse for the intentional torts and other crimes intentionally committed by the  
22 "GM FAMILY" noted herein.  
23  
24  
25

1 Mr. Kordella then followed up his grossly disparaging and expertly Blogged attack and  
2 proceeded to send direct and separate emails to additional interested parties who commented on  
3 his "MONEY01" blog which Mr. Kordella created on plaintiff's professional automotive  
4 funding expansion website and referred to this plaintiff as a fraud.

5 The libel per se that was "Blogged" by GM and GMAC efforts on mealercompanies.com  
6 website was done for the explicit and malicious purpose of causing as much damage as possible  
7 to plaintiff which acted as a deterrent for various interested parties who were investigating and  
8 doing final "due diligence" on plaintiff and plaintiff's business prior to investing in, offering their  
9 services for, applying for, planning a future purchase, offering equipment and buildings for lease  
10 or sale to, or otherwise providing funding, backing and other support for plaintiff and plaintiff's  
11 business and family.

### 12 CLAIMS AGAINST DEFENDANTS

13  
14 The torts and crimes committed, propagated and continued to this day without remorse by  
15 the defendants against this plaintiff are; 1). gross defamation per se, 2). gross libel per se with  
16 intent to destroy, 3). trade libel per se, 4). intentional tortuous interference with prospective  
17 advantage, 5). breach of fiduciary duty, 6). negligence of fiduciary duty, 7). conspiracy to  
18 commit fraud, 8). fraud, 9). conspiracy to commit mortgage servicing fraud, 10). mortgage  
19 servicing fraud, 11). unfair business practices-antitrust, 12). unfair competition, 13). specific  
20 intent of defendants to obtain a monopoly through unfair and predatory business conduct, 14).  
21 unjust enrichment, 15). negligent infliction of emotional distress, 16). intentional infliction of  
22 emotional distress, 17). slander of business reputation, 18). equitable subordination, 19).  
23 conspiracy for equitable subordination, 20). invasion of privacy with intent to injure, 21).  
24 trespass with intent to injure, 22). instilling extreme duress used to induce mortgage failure, 23).  
25



1 intentional and negligent conspiracy to inflict business injuries, 24). false light, 25). abuse of  
2 power in by stronger party in contract, 26). illegal debt collection practices creating inability to  
3 perform, 27). fraudulent inducement, 28). fraudulent obstruction, 29). combined contributory  
4 negligence, 30). impairment of earning capacity, 31). intentional creditor misconduct resulting in  
5 injury, 32). breach of contract, 33). malfeasance creditor misconduct, 34). actual contract fraud in  
6 conjunction with mortgage contract, 35). deprivation of rights, 36). malfeasance creditor  
7 misconduct, 37). negligence, 38). conspired effort to defame, 39). anticompetitive business  
8 practices, 40) illegal coercive monopoly, et al and to be completed upon discovery disclosure  
9 proceedings.

#### 10 **OUTLINE OF DEFENDANT'S INTENTIONAL TORTS AGAINST PLAINTIFF**

11 The defendant's strategic defamatory libel per se against this plaintiff was cleverly  
12 worded, wholly fraudulent, deceptive and dishonest by design and effectually destructive and  
13 immediately updated as news when it was delivered via email, worldwide, to the various  
14 interested investing parties who had signed up for automatic updates via the RSS feed (Really  
15 Simple Syndication also considered a "live news feed" or "real time update") which obviously  
16 destroyed the investment and product credibility and over-all viability of this plaintiff.  
17 Defendant's actions, intentions and blatantly vicious libel cyber-attack by design and according  
18 to Mr. Kordella's letter of admission, (See Exhibit B-1) which resulted in:  
19

20 1). Maintaining intentionally wrongful, fraudulent business methods to gain an unfair  
21 advantage over this plaintiff, including: a) untrue or misleading advertising or promotion which  
22 misrepresent the nature, characteristics, qualities of the Mealer Automobile, b) falsely  
23 disparaging this plaintiff's products.  
24  
25

1 2). Establishing a coercive monopoly of automobile manufacturers through the  
2 aforementioned private criminal acts whereby defendants were able to exclude plaintiff from  
3 competing within the automotive manufacturing business with that of GM,

4 44-1402. Contract, combination or conspiracy to restrain or monopolize trade  
5 A contract, combination or conspiracy between two or more persons in restraint of, or to  
6 monopolize, trade or commerce, any part of which is within this state, is unlawful.

7 3). Creating a situation of extreme duress and mortgage fraud through creditor (GMAC)  
8 initiation of contract fraud (also by GMAC) which in effect is both intentional tortfeasor(s) and  
9 blatant criminal actions against this plaintiff which disrupted this plaintiff's ability to maintain  
10 mortgage payments or for other financial recourse whereby his immediate and future financial  
11 situation and subsequent financial failure was beyond the control of this debtor (plaintiff).

12 Plaintiff's inability to maintain the very mortgage contract that ties this plaintiff to the  
13 creditor GMAC which resulted in the impossibility to perform and forced this plaintiff into a  
14 chapter 7 bankruptcy in October 2009, was caused by GMAC's intentionally induced fraudulent  
15 transfer (by mortgage default), of the ownership of this plaintiff's home. The mortgage and  
16 pending home foreclosure must be denied and blocked by this court in order to serve Justice, for  
17 at least the time that this case is adjudicated or settled.

18 When a mortgage is procured by fraud, the instruments can be canceled and foreclosure  
19 denied. *Meyerson v. Boyce*, 97 So.2d 488 (Fla. 3d DCA 1957). Fraud only invalidates  
20 contracts of debtor. In the absence of fraud, every contract of a debtor is valid against all  
21 his creditors, existing or subsequent, who have not acquired a lien on the property  
22 affected by such contract. R.L. 1910, § 2894. Unless displaced by the provisions of the  
23 Uniform Fraudulent Transfer Act, the principles of law and equity, including the law  
24 merchant and the law relating to principal and agent, estoppel, laches, fraud,  
25 misrepresentation, duress, coercion, mistake, insolvency, or other validating or  
invalidating cause, supplement the provisions of the Uniform Fraudulent Transfer Act.  
Added by Laws 1986, c. 100, § 11, eff. Nov. 1, 1986.

4). Creating the total and complete and immediate disruption of pending and prospective  
Mealer Companies business expansion funding agreements and other prospective contracts by

1 intentionally and negligently stating injurious falsehoods about plaintiff, to the then interested  
2 investors and the various interested and prospective parties who were expected per previous  
3 discussions and broker interface to invest in the MEALER AUTOMOBILE during the summer  
4 of 2009. This damaged the plaintiff \$200,000,000. in lost prospective investor opportunity.

5 5). Causing, by making untrue statements and shedding false light about plaintiff, the  
6 immediate persuading to cease any financial interest from once interested prospective investment  
7 parties including banks, venture capitalists, private investors, hedge funds, bonding agents,  
8 brokers, fellow small automakers. Discussions between these prospective parties and plaintiff  
9 ended abruptly due to the grossly disparaging libel and the typical anticompetitive drama created  
10 by the larger and more experienced globally renowned automaker "GM".

11 7). Disrupting relationships with various non-finance related parties who once held a great  
12 interest in the MEALER AUTOMOBILE and other products Mealer Companies LLC and John  
13 L Mealer were expecting to manufacture, who now have no interest in these products because  
14 defendants claimed this plaintiff and his business by MONEY01 standards, is not viable, is  
15 mindless, is self centered, is a fraud, etc. All pending funding deals ended abruptly and the  
16 immediate financial ruin of plaintiff was swift and complete.

17 8). Causing aggravated damages where damages may be assumed including but not limited  
18 to severe emotional and stress related physical suffering of this plaintiff, his wife and two sons.

19  
20 **DEFENDANT'S ILLEGAL CONDUCT AGAINST PLAINTIFF (CLAIMS)**

21 **I. Gross Libel per se, Defamation of Character per se, Trade Libel**

22 While working in concert and in a combined effort utilizing the GMAC registered and  
23 bank secured, registered at GMAC corporate headquarters Internet Service Provider ("ISP"), GM  
24 engineers entered plaintiff's professional Mealer Automobile company funding website and  
25

1 intentionally, maliciously destroyed over 25 years of planning, research, development and this  
2 plaintiff's life's work by intentionally and critically blackening this plaintiff's name and viability  
3 as an automaker and global supplier of Mealer Companies products. This is also a claim made by  
4 this plaintiff that defendant's must admit or deny as a whole. SEE APPENDIX I

5 The financial damages created by the defendant's to this plaintiff's good name in the  
6 alternative fuel powered automotive realm is not easily defined and left to this honorable court  
7 and the juries discretion, yet this plaintiff feels that \$200,000,000 is a worthwhile amount for  
8 these irreparable damages especially since the defendants have known about the libelous  
9 postings since June 9<sup>th</sup>, 2009 and have done nothing to remedy the situation after repeated  
10 requests by this plaintiff to date nor has the defendants offer any public apology whatsoever  
11 beyond the insolent private admissions by Mr. Kordella. Considering that the GM engineer Kris  
12 J Kordella who is an employee-agent of GM apologized and admitted his blatantly maliciously  
13 attacking plaintiff for the sake of GM and "...hundreds of his friends and co-workers who have  
14 depended on GM..." the defendants have little ground to stand on for not being culpable for this  
15 crime. Punitive damages and those damages related to plaintiff's family's pain and suffering  
16 should also be taken into consideration.

17  
18 This plaintiff puts to light the various and definable reasons that these grossly disparaging  
19 and irreparably defamatory statements are false and uncalled for is quite clear on it's face as, for  
20 example; Mr. Kordella's (GM) claim that Mr. Mealer has no mind is absurd and intended only to  
21 dissuade investors from looking upon Mr. Mealer as a viable investment manager for their  
22 money. Or GM's blatantly destructive claim that plaintiff is "self serving", "pathetic", a  
23 "MORON", a "CLOWN", when in fact each of these derogatory terms are strategically used to  
24 persuade the opposite of who and what Mr. Mealer really is. Plaintiff believes that this attack  
25

1 was carefully formulated to create the worst possible damage to this plaintiff and his family and  
2 his livelihood, and even if they came about from a moment of wild indiscretion on the part of  
3 GM engineer Mr. Kordella, the corporations bear the burden of Respondeat Superior from the  
4 private ISP owner (GMAC, RESCAP) to the long time direct employer (GM), to the department  
5 that has funded the continued transgression of this criminal activity (US Treasury).

6 This plaintiff believes that according to recent experience, no realistic potential investor  
7 in a new automotive company wants to commit large sums of money and trust into a company  
8 who has been disparaged and lied about and as inflected by GM's Mr. Kordella as a fraud, or  
9 which is run by a "... self serving, pathetic MORON"... or a "CLOWN". The defendant's strategy  
10 worked as planned and they accomplished their mission to prevent the Mealer Automobile trade  
11 from gaining a share of what they perceive to be the General Motor's exclusive global market.

## 12 **II. Gross Creditor Misconduct, Breach of Contract, Induced Impossibility of Performance**

13  
14 GMAC while working in concert with their preferred debtor "GM" and providing access  
15 to "GM" engineers with the very funds that were gathered from the plaintiff as mortgage  
16 payments to maintain their secure and as per banking rules their well established privately owned  
17 and maintained and housed at GMAC headquarters, Internet Service Provider ("ISP"), proceeded  
18 to allow and provide access for GM engineers and other GMAC employees to research, hunt  
19 down and enter their client-debtor's (plaintiff's) professional website and leave blackening  
20 comments which resulted in a total abrogation of rights, crippled this plaintiff's earning capacity,  
21 destroyed this plaintiff business and family life, et al.

22 These illegal transgressions occurred in clear violation of banking laws, creditor-debtor  
23 relationship standards, and blatant violations of housing laws, RESPA (12 USC 2601, 2616 et  
24 al), FDIC Debt Collection Practices (15 USC 1692 e, §§ 806(1), 808(8)(10), f § 808(6)(A)(B),  
25

1 Bank Reform Act of 1978 (11 USC § 510(c)(1)(2), and other violations and legal remedies and  
2 claims and facts to be brought forth during trial following Discovery Disclosure.

3 Plaintiff demands his home in it's entirety unencumbered as retribution for the crimes  
4 committed by GMAC as noted herein AND \$200,000,000. in damages or as the court and jury  
5 deem proper, for the actions detailed above and separate from violations of other torts and  
6 antitrust issues as detailed herein.

7 **III. Intentional Interference With Prospective Advantage**

8 GMAC and GM have created a situation against this plaintiff whereby they worked in  
9 concert through their employees and/or agents to intentionally interfere with this plaintiff's  
10 prospective advantage in his automotive manufacturing business.

11 The elements of this cause of action are:

- 12  
13 (1) The existence of a valid contractual relationship or business expectancy;  
14 (2) knowledge of the relationship or expectancy on the part of the interferor;  
15 (3) intentional interference inducing or causing a breach or termination of the relationship  
16 or expectancy; and  
17 (4) resultant damage to the party whose relationship or expectancy has been disrupted.  
18 Hirsch v. Cooper, 737 P.2d 1092, 1097 (Ariz.Ct.App.1986).

19 (1) The destruction of plaintiff's credibility, [with his then prospective investors and a diverse  
20 group of credible brokers, banks, and other viable funding sources such as venture capitalists and  
21 private investment groups who were using the plaintiff's professional website as a final sounding  
22 board for their own due diligence], was the blatant intentions by defendants in this matter.

23 (2) Defendant Mr. Kordella signed onto this plaintiff's professional and investor based  
24 website under the alias as moniker "MONEY01" in order to portray himself as a leading money  
25 and investor source which is clearly evidence that Mr. Kordella knew the reason for the existence  
of this plaintiff prospective investment website.

1 Furthermore, the fact that this grossly disparaging attack occurred on this plaintiff  
2 professional investor oriented website where it is made quite clear the reason for this exact  
3 website currently listed on the page 2 entitled and linked from "WHAT WE ARE REALLY  
4 ABOUT", at [http://mealercompanies.com/?page\\_id=2](http://mealercompanies.com/?page_id=2) which was visited multiple times by Mr.  
5 Kordella during his crippling tirade and business destructive libelous attack and clearly states the  
6 following reasons for th professional website's existence, (emphasis kept):  
7

8 "WHAT WE ARE REALLY ABOUT"

9 "Mealer Companies LLC is gathering funding to begin full scale production of our  
10 automobile and 220v full power source (combined as one). We have the vehicle, the  
11 patents, the key personnel and are now simply procuring the key ingredient...  
12 *The remainder of our investment money.*"

13 (3) The tortuous crime of trade libel against the MEALER AUTOMOBILE and the gross  
14 libel per se (noted herein) against plaintiff John Lewis Mealer (noted herein) as tortuous actions  
15 taken by GM by and through the GMAC Internet Service Provider ("ISP") as supplied by their  
16 creditor GMAC which is coincidentally this plaintiff's creditor, have created the inability of this  
17 plaintiff to close the deal with his prospective investors simply because of defendant's strategic,  
18 malicious, business sabotage resulting in Intentional Interference with this plaintiff's Prospective  
19 Advantage. Defendant made it very clear why he had entered plaintiff's professional website and  
20 he succeeded in his quest for total destruction of plaintiff's life.

21 (4) GM's employee agent. Mr. Kordella, while at work and while utilizing the GMAC  
22 secured and private Internet Service Provider ("ISP") from work entered the site and signed on  
23 as a professional blogger under the name of "MONEY01" to assert his professional and "real  
24 engineer" viewpoint of the viability of the MEALER AUTOMOBILE and the plaintiff from a  
25 personal perspective as detailed herein. Mr. Kordella obviously knew the reason for the website's  
existence and the effect of his intentionally destructive and untrue comments about this plaintiff



1 and this plaintiff's automobile manufacturing business and 25 years of research and design. Mr.  
2 Kordella's ("GM") attack utterly and immediately destroyed all Mealer Companies viability and  
3 the personal and private work related capability of plaintiff and destroyed and ended the  
4 prospective investor relations who have since lost all interest with plaintiff and his business.

5 Although there is no Arizona law directly on point (i.e., addressing the question whether a claim  
6 for tortious interference with prospective contractual relations is dependent upon compliance  
7 with the statute of frauds), it appears that under Arizona law, a tort "may be committed even  
8 where the plaintiff has no contractual rights but simply the prospect of a contractual  
9 relationship." *Bar J Bar Cattle Co. v. Pace*, 158 Ariz. 481, 486; 763 P.2d 545, 550  
(Ariz.Ct.App.1988) (citing Restatement (Second) of Torts § 766B comment c (1979) ("The  
relations protected against intentional interference by the rule ... include any prospective  
contractual relations ... if the potential contract would be of pecuniary value to the plaintiff.")).

10 The California Supreme Court has held that a claim for intentional interference with prospective  
11 economic advantage is not dependent on compliance with the statute of frauds. See *Buckaloo v.*  
*Johnson*, 14 Cal.3d 815, 822; 537 P.2d 865, 868 (1975). It reasoned:

12 This is a tort theory of recovery rather than contract, and is based on interference with a  
13 "relationship" between parties irrespective of the enforceability of the underlying agreement. As  
14 stated in the leading California case of *Zimmerman v. Bank of America*: "The tort of interference  
15 with an advantageous relationship, or with a contract, does not ... disintegrate because it relates  
16 to a contract not written or an advantageous relation not articulated into a contract. The nature of  
the tort does not vary with the legal strength, or enforceability, of the relation disrupted. The  
actionable wrong lies in the inducement to break the contract or to sever the relationship, not in  
the kind of contract or relationship so disrupted, whether it is written or oral, enforceable or not  
enforceable."

17 *Id.* (citation omitted) (emphasis in original). Because we believe that the Arizona Supreme Court  
18 would find the California Supreme Court's reasoning to be persuasive, we hold that to prevail  
19 upon their claim for tortious interference with prospective contractual relations, the appellants  
20 need not show that they could have enforced the alleged oral agreement with the RTC.  
Accordingly, the Arizona statute of frauds is not dispositive of the 12(b)(6) motion as it relates to  
this claim.

21 Mealer Companies funding documents which had been distributed to the prospective and  
22 highly interested parties for their investment considerations, and which was under serious  
23 prospective investment consideration including this plaintiff's professional interface and globally  
24 accessible website which was also being scrutinized and under due diligence, whereby GMAC  
25 provided the pathway and possibly an incentive as they certainly had multiple motives, for GM



1 engineers to blacken the good name of this plaintiff and Mealer Automobile manufacturing  
2 goals. This document titled "MEALER COMPANIES, FUNDING REQUEST SUMMARY,  
3 CONFIDENTIAL DISCLOSURE, J.L. MEALER, Q2 JUNE 2009" on Page 8, which state very  
4 clearly the amount of funding that was prospective and under serious consideration and financial  
5 advisory at the time:

6 " Mealer seeks to raise start-up \$95,000,000 in VC capital and lease-back agreements over the  
7 first three years for Phase I, not taking into account pre-and post-production sales. After two  
8 years, Mealer will require another \$105,000,000 of either private capital or loans for Phase II  
9 secondary manufacturing purposes. The company will have one major manufacturing facility in  
10 either VA or TN and electronics research and developmental center and manufacturing center  
11 either in the same state or elsewhere. At least four other ideal manufacturing locations are under  
12 review and remain highly attractive. The cost of a fund-to-suit conversion of existing facilities  
13 proves to be a fast, viable and cost-effective alternative to new site construction. And, since  
14 there are a growing number of such facilities coming to market, Mealer is sure to find the right  
15 facilities to meet our requirements. "

16 The aggravated and direct damages and loss of prospective funding which was caused by  
17 GM through the private and bank secured ISP registered to GMAC headquarters is  
18 \$200,000,000. The actions of GMAC of allowing and providing for their debtor GM to enter this  
19 plaintiff's professional website with the intent to injure and destroy. Defendant GMAC  
20 intentionally participated and caused the immediate and future abandonment and discontinuance  
21 of financial investment interest from prospective contracts and agreements by this plaintiff's  
22 prospective investors, future customers, future employees and other interested parties. The actual  
23 damages are ongoing and neither GM, nor GMAC has offered to remove their grossly damaging  
24 libel, nor have they made any attempt to contact the once prospective investment parties or other  
25 interested parties and the intentionally damaging remarks are still on plaintiff's professional  
website without any public comment or apology from defendants.

IV. Anticompetitive Behaviour, Coercive Illegally Obtained Monopoly, Antitrust  
Violations, Defendant's Coercive Monopoly by Destruction of Plaintiff's Business Growth,

1 The very actions of defendant's in their exclusionary anticompetitive behavior against  
2 this plaintiff ultimately result in their desire and need to exclude this plaintiff from entering the  
3 competitive automotive field where the Mealer Automobile would compete with a General  
4 Motors automobile. Rather than welcome the newcomer into the automotive arena, defendants  
5 opted to totally destroy and exclude this plaintiff from open market and international  
6 competition. The facts speak for themselves and the actions of these defendants including their  
7 motives spell out the exact intentions of their illegal anticompetitive coercive monopoly actions  
8 through the blatant sabotage of the Mealer Automobile and the destruction of JL Mealer himself.

9 The actual lost monetary amount and value of damages created by defendants  
10 anticompetitive and antitrust actions are difficult to ascertain because history has forever been  
11 changed and the Mealer Automobile may never reach full production as was originally planned  
12 and as once under intense consideration as the prospective business growth may have allowed.  
13 The grossly negligent and intentionally blatant acts of interference by these defendants may  
14 never be realized. Plaintiff relies on this honorable court and the future jury to define their  
15 versions of what the Mealer Automobile and other Mealer products could have and would have  
16 done for this country and this plaintiff had these defendants not interfered.

17  
18 **DEFENDANT'S ADMISSION OF THE ACT**

19 GM engineer, Mr. Kordella went so far as to offer a half-hearted yet completely private  
20 apology for his publicly degrading and professionally devastating attack while in his  
21 professional capacity at work, of which his attack strategically and proudly touted his qualified  
22 "GM" engineering and "MONEY01" investor related moniker. Thus, GM has admitted their  
23 attack which ultimately and immediately destroyed any and all prospective funding and future  
24 purchases of the Mealer Automobile and the good name of plaintiff so as to prohibit this plaintiff  
25

1 from locating a viable automotive or other engineering related job. Defendants clearly, blatantly  
2 and maliciously have derailed prospective funding for Mealer Companies LLC expansion and  
3 this plaintiff's B-Round growth. The signed confessions states that GM, specifically Mr.  
4 Kordella, was worried for the welfare of the company and fellow employee payroll and pensions.

### 5 EMOTIONAL DISTRESS

6 The emotional distress brought on by the immediate loss of 25 years of research and  
7 development being washed down the drain due to the corrupt actions of the defendants has  
8 created a serious, debilitating effect on this plaintiff's emotional state which has unfortunately  
9 been passed onto all immediate family members with classic symptoms of severe distress  
10 disorders and aggravated mental trauma.

11 Gross creditor misconduct committed by GMAC upon allowing access (whether  
12 knowingly or unknowingly) to this plaintiff's professional website [of which was manifestly  
13 depended on by this plaintiff for his livelihood, business growth and mortgage contract  
14 fulfillment], through the GMAC headquartered secured Internet Service Provider ("ISP") and by  
15 the very fact that this was done to their own debtor (this plaintiff) for the benefit of their  
16 preferred debtor (GM) and that this has continued to this day wholly unabated and without  
17 defendant's remorse or this plaintiff's ability for mortgage recourse creates additional, real-life  
18 fear in the form of utter helplessness and this actual physical distress in the form of absolute  
19 uncontrollable duress, oppression and complete unbridled panic at the potential outcome of this  
20 instant case where this plaintiff is battling in self-defense against a much better funded and  
21 completely unscrupulous 'global powerhouse' called General Motors and General Motors  
22 Acceptance Corporation *and the thousands of US taxpayer funded top notch lawyers at their*  
23 *disposal.*  
24  
25

1 Let me be clear... I can only write this now because it is 1:00 AM and my family is  
2 asleep, so it is safe for the man of the house to break (just a little bit) right now.

3 This injured plaintiff who has lost nearly everything to these plaintiff's is an absolute  
4 victim who is literally at the mercy of this court and whatever form of Justice and Law that can  
5 somehow be brought forth against a blatantly destructive, multinational series of interlocked,  
6 commingled corporations which are infinitively well funded by the US Treasury, SIMPLY to  
7 save his home, and SIMPLY to maintain some resemblance of a normal his life for his family  
8 and SIMPLY to hold dear to what liberty is available in a time when multinational corporations  
9 who are paid for with taxpayer funds run rampant over the newcomers and little guys in  
10 competitive business, and to SIMPLY continue to try to survive and maintain the original  
11 business and dream that was officially begun in 2008, yet originated in 1982 during high school.  
12 This entire case was brought on by the defendant's clear and blatant attempt to destroy this  
13 plaintiff and not by any actions caused or created by this plaintiff.

14  
15 The premise of duress is the virtual destruction of the victim's free will. Cooper v. Cooper, 69  
16 So.2d 881 (Fla. 1954); Herald v. Hardin, 95 Fla.

17 As a matter of record, this plaintiff's doctor has repeatedly discussed with this plaintiff  
18 various forms of sedatives to calm the agitated mental and emotional state of this plaintiff which  
19 has been caused specifically by this instant crippling antitrust and intentional tort issue created  
20 and maintained by the defendants strictly for the purpose of stealing this man's home and  
21 crushing his business efforts. Plaintiff contends to his doctor that he needs his wits about him in  
22 order to find a way out of this mess in this honorable court and to save his home and business  
23 and to somehow provide for his family. Ingesting medication only to mask this severe trauma  
24 and extreme duress is not an option, and is simply not going to be done by this plaintiff.

1 To this day, the affects of this unwarranted and ongoing attack have created and continue  
2 to prolong debilitating emotional and physical issues which coincides with PTSD and which  
3 have been discussed with family doctors and a long time federal agent who have experience with  
4 such matters and that affect this plaintiff and his wife and two young sons, who are leaving this  
5 plaintiff to live with other family members (in July 2010). The stress at our 'home' is simply too  
6 much to put them through.

7 **ALLEGATIONS AND CLAIMS BY PLAINTIFF**  
8 **THAT DEFENDANTS MUST EITHER ADMIT OR DENY**

9 1. Defendant GMAC Mortgage LLC was headquartered at 200 Renaissance Center Detroit,  
10 Michigan on June 9<sup>th</sup>, 2009.

11 2. Defendant GMAC Financial Services is headquartered at 200 Renaissance Center  
12 Detroit, Michigan on June 9<sup>th</sup>, 2009.

13 3. Defendant GMAC fs and GMAC Mortgage LLC list their headquarters as 200  
14 Renaissance Center Detroit, Michigan on FTC, FDIC and other press releases to date.

15 4. Defendant's within the GM family in the Detroit, Michigan and surrounding area utilized,  
16 on June 9<sup>th</sup>, 2009, the "GMC-20" Internet Service Provider ("ISP") which is registered as 200  
17 Renaissance Center Detroit, Michigan as a secure and private access to the Internet.

18 5. Defendant Kris J Kordella was an engineer for General Motors employed on June 9<sup>th</sup>,  
19 2009.

20 6. Defendant Kris J Kordella was an engineer working for "GM" and at work on June 9<sup>th</sup>,  
21 2009 at 10:56 AM.

22 7. Defendant Kris J Kordella was an employee working for "GM" on June 9<sup>th</sup>, 2009 had  
23 access to the Internet and had the GM assigned email address of kris.j.kordella@gm.com .  
24

1 8. Defendant Kris J Kordella utilized the "GMC-20" IPS from within his place of work at  
2 "GM" on June 9<sup>th</sup>, 2009 under the IP address 198.208.251.24 belonging to GMC-20 and  
3 registered to GMAC headquarters and as originated from the GM location and Mr. Kordella's  
4 secured and registered to GM company computer.

5 9. Defendant Kris J Kordella was employed by "GM" from May 1986 to September 2009  
6 for 23 years and 5 months.

7 10. Defendant Kris J Kordella is currently "self-employed" as a Quality Engineering and  
8 Education and Training Development agent mainly for the "new GM" and receiving  
9 compensation for his services from the "new GM".

10 11. Defendant Kris J Kordella did enter plaintiff's professional automotive manufacturing  
11 and prospective financing oriented website on June 9<sup>th</sup>, 2009 at 11:29:31 AM and signed on to as  
12 a Blogger calling himself "MONEY01".

13 12. Defendant Kris J Kordella did leave defamatory comments with the blatant intentions,  
14 reasoning the destruction of plaintiff's business as quoted in Mr. Kordella's "...wish you all the  
15 worst the world can give such a self-serving pathetic moron..."

16 13. Defendant Mr. Kordella did offer plaintiff a private apology admitting to the libel and  
17 other defamatory actions detailed within this document.

18 14. Defendant GMAC purchased the title to mortgage contract (No. 0602003923) for  
19 plaintiff's home located at 6333 Gardenia Lane, Show Low, Arizona from Amerifirst Financial,  
20 Inc. on or near February 15<sup>th</sup>, 2008.

21 15. Defendant US Treasury Department has and continues to provide funding to GMAC  
22 Financial Services LLC, GMAC Mortgage LLC, Residential Capital LLC.  
23  
24  
25

1 16. Defendant US Treasury Department has and continues to provide funds and financial  
2 security to General Motors Corporation, General Motors Company, Motors Liquidation  
3 Company.

4 17. Jane Doe who is identified as GM employee Christy Garwood is now or was an  
5 employee of GM (christy.garwood@gm.com) and utilizing the IP address 198.208.251.22 from  
6 within GM corporate offices on June 9<sup>th</sup>, 2009 while at work.

7 18. John Doe who is identified as GM employee Joseph Burgel is now or was an employee of  
8 GM (joseph.burgel@gm.com) and utilizing the IP address 198.208.251.23 from within GM  
9 corporate offices on June 9<sup>th</sup>, 2009 while at work.

10 19. Defendant GMAC is creditor to defendant GM old and GM new, MLC and holds an  
11 interest in payments to be gathered from these companies.

12 20. Defendant GM owes more than \$500,000 in credit swap, actual federal reserve notes or  
13 other value to their creditor GMAC.

14 21. Defendant GMAC has stated in various FTC and FDIC documents and other public press  
15 releases proclaimed itself to be and is actually tied and financially reliant on GM old, GM new,  
16 and MLC to recover and/or maintain and/or distribute debt and/or repay debt and/or make  
17 vehicle sales whether in bankruptcy or out of bankruptcy.

18 22. Defendant Kris J Kordella did on June 9<sup>th</sup>, 2009 hunt down Mr. JL Mealer and Mealer  
19 Companies LLC professional automotive finance related website with intent to trespass to injure  
20 and destroy to the best of his ability Mr. Mealer's ability to gather prospective funding for his  
21 privately owned business expansion and B-Round growth funding from prospective investors  
22 whereby Mr. Kordella signed on to Blog as "MONEY01" and later admitted his criminal  
23  
24  
25



1 transgressions as his spurious method of retribution used to assist in securing the jobs and  
2 pensions of hundreds of his friends and co-workers.

3 23. Defendant Mr Kordella did succeed in his attempts as noted in #22 above.

4 24. Defendant Mr. Kordella has received uninterrupted paychecks from old GM to new GM.

5 25. Defendant Mr. Kordella was an engineer and at work for GM on June 9<sup>th</sup>, 2009 and was  
6 surfing the Internet while at work and not doing the job he was hired for as an engineer.

7 26. Defendant Mr. Kordella was assigned a job where he was told to surf the Internet in  
8 search of mortgages who may or may not have been in default and took special note when  
9 plaintiff's automotive manufacturing business searching for funding was discovered.

10 27. Defendant Mr. Kordella was so enraged as to comments on an autoblog made by plaintiff  
11 regarding the UAW and corporate greed creating the downfall of his employer that he hunted  
12 this plaintiff down with the intent to destroy.

13 28. Defendant Mr. Kordella was so enraged by this plaintiff's comments concerning the  
14 qualifications of GM's then newly appointed interim CEO who was untrained to auto  
15 manufacturing that Mr Kordella hunted down this plaintiff with intent to destroy.

16 29. Defendant Mr. Kordella was temporarily re-assigned from engineering duties to  
17 research troubled accounts in an effort to locate and assist in liquidation of potentially troubled  
18 assets.

19 30. Defendant Mr Kordella was not always an engineer with GM, but acted as a public  
20 relations and professional Blogger working with other GM, GMAC, RESCAP employee agents,  
21 Bloggers, public relation employees, agents specifically Christy Garwood and Joseph Burgel.

22 31. Defendant Mr Kordella was nearing retirement and decided to search assets of GMAC  
23 Mortgage in an effort to locate a home out of Michigan he may be able to acquire at a  
24  
25



1 reasonable price as per his comments stating exactly that on a blog where he left a comment in  
2 2008 regarding what he would do if GM ever went "*belly up*". "*...I'd get the Hell out of this*  
3 *piece of shit state...*" And Mr. Kordella was assisted by GMAC Relocation which is nearby his  
4 place of work in Bloomfield Hills, Michigan.

### 5 APPENDIX I

6 The following outline details the negligent, unprivileged publication of intentionally false  
7 and defamatory "Blogged" content placed on plaintiff's professional automotive and business  
8 expansion website with the intent to destroy the reputation and funding viability and expansion  
9 of manufacturing capabilities of the Mealer Automobile. When, on June 9<sup>th</sup>, 2009 GM Engineer  
10 Kris J Kordella who signed on as "MONEY01" in order to elevate himself in what he portrays as  
11 an investor who appears to have superior knowledge in all matters of funding (specifically with  
12 Mealer Automobiles), which in turn adds a preponderance of evidence that Mr. Kordella and the  
13 defendants did IN FACT know the exact purpose of this plaintiff's funding expansion website.

14  
15 **Defamation: A statement which causes harm to reputation.**

16 A statement is defamatory if it "tends to injure the plaintiff's reputation and expose the plaintiff to  
17 public hatred, contempt, ridicule, or degradation." Phipps v. Clark Oil & Ref. Corp., 408 N.W.2d  
18 569, 573 (Minn. 1987).

19 When the defamatory meaning is not apparent on its face, the plaintiff has the burden of pleading  
20 and proving such extrinsic facts. Anderson v. Kammeier, 262 N.W.2d 366, 371 (Minn. 1977).

21 The comments below as *highlighted, italicized in quotes*, and meanings of this portion of  
22 defendant's comments from modern everyday dictionary definitions is underlined in quotes. This baseless  
23 attack which destroyed this plaintiff were posted in their entirety (*yes, there's more*), and immediately  
24 sent out to many highly interested qualified prospective investors, prospective future customers and future  
25 engineering and other employees who had signed up for RSS feed from the Mealer Companies LLC  
interim, qualified Investor based website known as mealercompanies.com;

1a. (Meriam Webster Dictionary), ... "*Mealer Automobiles? America's next major automobile  
company??*"

1 "Question Marks and multiple usage of Question marks meaning: a: Something unknown,  
2 unknowable, or uncertain b: someone (as an athlete or an automaker) whose condition, talent,  
3 or potential for success is in doubt."

4 The statement above "1a." make it blatantly clear the intentions of defendant (GM) Mr. Kordella  
5 can only allude to and are perceived by this injured victim as signaling and making it clear to prospective  
6 investors, clients and engineers that the viability, condition and potential for success of Mealer  
7 Automobiles is in serious doubt and "MONEY01" makes it clear that all should be wary of this unknown  
8 company with it's uncertain automobile product. Casting doubt in major investment while portraying  
9 oneself as a financial guru and a "real" engineer is intentional interference with a prospective advantage.

10 1b. (Collins English Dictionary), "...**HAH!!!!!!!!!!!!!!!!!!!!!!**"...

11 "HAH abbreviation of HA meaning an exclamation denoting surprise, joy or grief. Both uttered  
12 and as written, it expresses as great variety of emotions, determined by the time or the context.  
13 When repeated ha,ha, it is an expression of laughter, satisfaction, or triumph, sometimes derisive  
14 laughter; or sometimes it is equivalent to "Well, it is so." Ha-has, and articulate hootings of  
15 satirical rebuke. Carlyle

16 1c. (Stuart Jeffries, "The Joy of Exclamation Marks!" The Guardian, Apr. 29, 2009)

17 "There is surely a point after which exclamation marks no longer express friendliness. In this  
18 post-literal time, exclamation marks become signs of sarcasm as witty correspondents rebel  
19 against their overuse. Hence: 'I loved your last email! OMG did I LOVE it!!!!!!' The point is  
20 they didn't. They were being IRONIC."

21 1d. Use of multiple Exclamation Points with exclamation point defined as: "as a symbol of  
22 factorial function, or (in logic) occurring with an existential quantifier"

23 The blatant statements and strategic use of punctuation at "1b., 1c., 1d" as Blogged by Mr.  
24 Kordella under the moniker aka "MONEY01" is clearly an attempt to create an expression of derisive  
25 and comical rebuke of the Mealer Automobile so as to persuade prospective investors, employees,  
engineers and other interested parties to steer clear of the company and man (this plaintiff) who have  
anything to do with the Mealer Automobile as it would reduce these interested parties to the same ridicule  
as Mr. Kordella portrayed and intentionally inflected upon this plaintiff in his successful efforts to  
interfere with funding and business growth and the over-all competition that Mealer Automobiles would  
give to GM automobiles. The exclamation marks and over-use of this particular punctuation drives the

1 point home to these same parties who are looking for the smallest weakness to put their hard earned  
2 investment money, time and efforts elsewhere.

3 2. (Cambridge Idiom Dictionary), *"...it's obvious you don't have one (a mind)..."*  
4 commonly referred to as *out of your mind:*  
5 "extremely stupid or mentally ill."

6 This blatantly crippling comment was a coupe de gras by adding to the doubt of this plaintiff's  
7 mental capability and his ability to function as any form of normal human being let alone as a  
8 businessman running a company that is requesting \$200,000,000. of investment funds from prospective  
9 parties, and/or the same businessman running a company selling any viable product or hiring competent  
10 engineers. This is clearly a gross and blatant attempt (that proved successful) to dissuade prospective  
11 investors and clients from putting efforts and funding into the growth of a competitive automaker. After-  
12 all, what serious engineer or other long term qualified employee would want to taint their resume by  
13 working with a man whom GM and MONEY01 and engineer Mr. Kordella claims has no mind? Common  
14 market research and long time purchasing habits sheds light on the fact, that very few people would  
15 commit to buy a high dollar product (specifically an automobile) from a man who is mentally ill.

16 3a. (Meriam-Webster Dictionary), *"...self serving..."*  
17 "Serving one's own interests often in disregard of the truth or the interests of others."

18 As Mr. Kordella noted above in "3a." plaintiff is self-serving and this is so far from the truth that  
19 it should fit in a category of lies and a crime all it's own. This term is used to signal to the world of  
20 prospective clients, investors, employees, suppliers, fellow business owners, future business partners and  
21 others that plaintiff cares for no one but his companies bottom dollar and will do whatever it takes to  
22 make a profit including the very acts and mistakes that certain current automakers have done to create  
23 their own self serving world of bankruptcy and failure.

24 3b. (Merriam-Webster Dictionary), *"...pathetic..."*  
25 "Pitifully inferior or adequate"

As defendants clearly intentionally misstate above in "3b." an effort to cleverly sabotage and seal  
the fate of this plaintiff's future by further dissuading his prospective investors from finalizing and closing  
the funding agreements for Mealer Companies. The term "...pathetic..." is used to portray this plaintiff as

1 inferior and inadequate for the prospective parties time, efforts or prospective investment funds, which is  
2 another blatant and successful attempt to destroy the validity and funding for the Mealer Automobile to  
3 prevent it from competing in an open market with GM vehicles.

4 **3c. (Merriam-Webster Dictionary), "...MORON..."**

**"1. a person affected with mild retardation. 2. a very stupid person."**

5 As defendants clearly and intentionally lied about in "3c." in order to destroy the upstanding  
6 business reputation of this plaintiff by referring to him as someone with mild retardation, who is very  
7 stupid and have intentionally created a life-changing outlook on this plaintiff's credibility as a viable  
8 candidate for the workforce or as an investment opportunity with his own business. No reasonable person  
9 would buy or rely on the safety of an automobile supplied by an automaker who is mildly retarded or very  
10 stupid.

11 **4. (Merriam-Webster Dictionary), "...CLOWN..."**

**"2. rude ill-bred person. 3. A person who habitually jokes and plays the buffoon."**

12 As defendants clearly and intentionally deceive this plaintiff's prospective clients and investors in  
13 "4" and intentionally misguide and mislead this plaintiff's future employees, future domestic and  
14 international customers by intentionally and incorrectly referring to this plaintiff as a "rude, ill-bred  
15 person" and someone who by the very description of this plaintiff caused this plaintiff to "lose face" with  
16 his prospective Japanese and Korean investment groups who now want nothing to do with this  
17 "CLOWN" as per MONEY01 and the real engineers from a real engineering firm as noted below in "5".

18 **5. (Merriam Webster Dictionary), "...real..." used twice to explain that Mealer was not "real".**

**"1. Not artificial, fraudulent, or illusionary. 2. GENUINE. 3. Genuinely good or capable of success."**

19 As defendants unequivocally misstate and intentionally dissuade plaintiff's prospective investors,  
20 et al. by inferring that the Mealer Automobile and JL Mealer are not "real" and in fact are no more than a  
21 fraudulent and illusionary, not genuine entity who is incapable of success. This alone is a major deal  
22 breaker and as has been proven, Mr. Kordella and these defendant's have succeeded in their quest to  
23 utterly destroy and crush this plaintiff and this plaintiff's business.  
24  
25

1 Furthermore, defendant's blatantly aggressive and destructive to this plaintiff's good  
2 reputation and Mealer Companies financial B-Round growth for the domestic manufacture for  
3 worldwide resale of Mealer Automobiles attacks included with their admission of said attacks  
4 prove their attempt to Intentionally Interfere with Mealer's Prospective Economic Advantage and  
5 destroy and blacken Mealer's good name. Defendant's statements are untrue, unfounded, posted  
6 through defendant's blatant and carefree trespass with intent and Blogged maliciously with the  
7 intent to injure this plaintiff. The attempt was successful as it totally wiped out prospective  
8 funding and created an inability to compete and total restraint of this plaintiff's ability to compete  
9 within the very international automotive trade that defendants GM are well known for.

#### 10 CONCLUSION

11 Through the combined efforts of a secured, maintained and corporately headquartered  
12 and housed (by GMAC and Residential Capital) Internet Service Provider ("ISP"), along with  
13 GM engineers (specifically Mr. Kordella) and professional Bloggers who work for GM and  
14 GMAC, with funding from the US Treasury and after the initial payments to maintain the ISP  
15 were deducted from a portion of this 'plaintiff-debtor to GMAC' house payment, these  
16 defendants have created and have maintained the destructive libel on this plaintiff's website that  
17 continues to destroy all aspects of a future for this plaintiff and his family. GMAC is currently  
18 and effectively stealing the home that this plaintiff built and has mortgaged with GMAC when in  
19 fact, GMAC caused this plaintiff to fail financially and with mortgage payments after  
20 participating in destroying Mealer Companies funding and this plaintiff's future job prospects.

21  
22 WHEREFORE, this plaintiff prays this court grant the following and/or permits this  
23 case to go to jury trial at the earliest possible time since time is of the essence and GMAC is  
24 attempting to steal this man's home after working on concert to destroy his ability to make  
25

1 mortgage payments as evidenced herein. The following demands should be met during this  
2 extraordinary yet plausible lawsuit:

- 3 1. GMAC and all representatives of defendants shall immediately be forbidden to enter the  
4 property of this plaintiff at 6333 Gardenia Lane, Show Low, Arizona.
- 5 2. Plaintiff prays that this honorable court, for the physical safety and well being of this  
6 plaintiff and victim of Gross Creditor Misconduct and other associated crimes along with  
7 his wife and two young sons, DOES ISSUE (pending the outcome of this instant case) a  
8 "permanent injunction" protecting the real property at 6333 Gardenia Lane Show Low,  
9 Arizona from foreclosure whether obtained legally or illegally by GMAC, RESCAP or  
10 any other party who may or may not represent the defendants or this plaintiff.

11 "The requirements for the issuance of a permanent (i)njunction are (1) the likelihood of  
12 substantial and immediate irreparable injury; and (2) the inadequacy of remedies at law."  
13 Dream Palace v. County of Maricopa, 384 F.3d 990, 1010 (9<sup>th</sup> Cir 2004). "In issuing an  
14 injunction, the Court must balance the equities between the parties and give due regard to  
15 the public interest." High Sierra Hikers, 390 F.3d at 642. District courts possess "broad  
discr(e)tionary power" to fashion equitable relief, see Lemon v Kurtzman, 411 U.S.  
192,200 (1973).

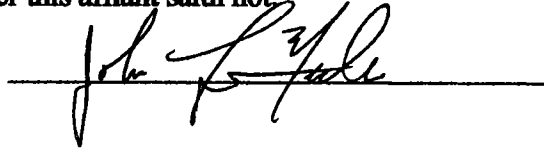
- 16 3. To be equally fair, this court should also protect defendants with an injunction against  
17 this plaintiff prohibiting him from selling or otherwise altering this home which could  
18 create a loss for either party.
- 19 4. GM and all representatives of defendant's shall immediately offer a public apology and  
20 retraction of the libelous defamation against this plaintiff and request that all libelous  
21 attacks by the defendant's against this plaintiff be removed from this plaintiff's  
22 professional website and that the moniker MONEY01 be aloud to be stricken from the  
23 immediate records and that all written public apologies may be sent to any offended or  
24 once prospective investment parties at the pleasure of this plaintiff.

- 1 5. That the combined defendants immediately pay this plaintiff \$200,000,000. in  
2 damages and other punitive damages as the court deems proper and as created by  
3 defendant's intentional gross libel per se (as admitted to by defendants and noted herein).
- 4 6. That this case proceed to trial for the Intentional Interference With Prospective  
5 Advantage (as allegations herein) and prosecuted to the full extent of the law plaintiff's  
6 loss of \$200,000,000. in prospective investment fees trebled as per the law.
- 7 7. That this case proceed to trial for the Arizona Revised Statutes Title 44 violations  
8 of antitrust and anticompetitive behavior (as allegations herein) and prosecuted to the full  
9 extent of the law. Thus far plaintiff's monetary loss is to be determined by the  
10 documentation and this honorable court.
- 11 8. That any other compensation be provided to this damaged plaintiff and victim as  
12 this honorable court and subsequently applied jury deem proper.

#### 13 AFFIDAVIT

14  
15 I, John Lewis Mealer affirm the preceding to be true and correct to the best of my  
16 knowledge and perception of this ongoing incident, and under penalties of perjury and fraud,  
17 create this affidavit with my signature below. Further this affiant saith not

18 7 June 2010

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24  
25  




1 John Lewis Mealer, Pro Per (Pro Se)  
2 6333 Gardenia Lane  
3 Show Low, Arizona 85901  
4 jlmealer@mealercompanies.com  
5 jlmealer@yahoo.com

6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
7 **IN AND FOR THE COUNTY OF NAVAJO**

8 **JOHN LEWIS MEALER**

9 **PLAINTIFF**

10 **vs**

11 **GMAC MORTGAGE LLC and CEO DAVID**  
12 **APPLEGATE, GMAC FINANCIAL**  
13 **SERVICES, GMAC LLC and CEO**  
14 **MICHAEL CARPENTER, GENERAL**  
15 **MOTORS CORPORATION., GENERAL**  
16 **MOTORS COMPANY and CEO EDWARD**  
17 **WHITACRE JR, MOTORS LIQUIDATION**  
18 **COMPANY, RESIDENTIAL CAPITAL LLC**  
19 **and CEO THOMAS MARANO, UNITED**  
20 **STATES TREASURY DEPARTMENT, GM**  
21 **ENGINEER KRIS J KORDELLA, JANE**  
22 **DOE, JOHN DOE, et al.**

23 **DEFENDANTS**

**CASE NUMBER CV201000316**

**CERTIFICATE OF**  
**COMPLETION AND FILING**

**SUMMONS**

24 The plaintiff John Lewis Mealer to defendant(s):

25 *CEO "New" GM (et al) Edward Whitacre Jr. in his personal and*  
*professional capacity, jointly and severally.*  
*300 Renaissance Center, Detroit, MI 48265-3000*

*Mzil Drop 482-239-610*

26 **YOU ARE HEREBY SUMMONED and required to serve upon this plaintiff, pro per, an**  
27 **answer to the complaint which is herewith served upon you, within twenty (20) days, exclusive**  
28 **of the day of service, after service of this summons upon you if served within the State of**  
29 **Arizona. Direct service is complete when made. Arizona Rules of Civil Procedure. Rule 4.**



1 YOU ARE HEREBY NOTIFIED that in case of your failure to appear and defend within  
2 the time applicable, judgement may be taken against you for the relief demanded in the  
3 Complaint.

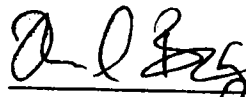
4 YOU ARE CAUTIONED that in order to appear to defend, you must file an Answer or  
5 other proper response in writing with the Clerk of this Court, accompaied by the necessary  
6 filing fee, within the time required, and you are required to serve a copy of any Answer or other  
7 response upon the Plaintiff, pro per. Arizona Rules of Civil Procedure, Rule 10.

8 The name and address of the Plaintiff

9 John Lewis Mealer  
10 6333 Gardenia Lane  
11 Show Low, Arizona (85901)  
12 jlmealer@mealercompanies.com

13 REQUESTS FOR REASONABLE ACCOMODATION FOR PERSONS WITH DISABILITIES  
14 MUST BE MADE TO THE DIVISION ASSIGNED TO THE CASE BY APRTIES AT LEAST  
15 THREE (3) DAYS IN ADVANCE OF A SCHEDULED COURT PROCEEDING.

16  
17 SIGNED AND SEALED this 10<sup>th</sup> day of August, 2010

18  
19  
20 

21 Deputy Clerk/ Clerk of the Court  
22  
23  
24  
25

John Lewis Mealer, pro per

Address

6333 Gordon Ln. Shawlow, Ariz 85500

JLMEALER@MEALERCOMPANIES.COM

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF NAVAJO

JOHN LEWIS MEALER

PLAINTIFF

VS.

GMAC MORTGAGE LLC, et al

DEFENDANT(S)

Case Number: CV 201000316

CERTIFICATE OF

COMPULSORY ARBITRATION

Title of Pleading

COMES NOW Plaintiff(s), pro per and pro se by this  
honorable court's description, and hereby certifies that  
this case is not subject to the Uniform Rules of Procedure  
for Arbitration, because equitable relief is sought.

DATED THIS 16<sup>th</sup> day of August, 2010

Submitted on: 6/8/2010

Signature

Signature witnessed this 8<sup>th</sup> day of June 2010, by

Copy to:

Notary Public / Deputy Clerk

CONFORMED COPY OF ORIGINAL

AUG 10 2010

NAVAJO COUNTY SUPERIOR COURT  
VALERIE WYANT, CLERK

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF NAVAJO

JOHN LEWIS MEALER

PLAINTIFF

VS

CASE NUMBER CV201000316

*REQUEST FOR JURY TRIAL*

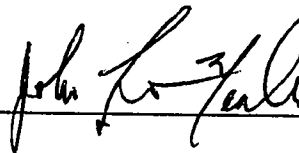
GMAC MORTGAGE LLC and CEO DAVID  
APPLEGATE, GMAC FINANCIAL  
SERVICES, GMAC LLC and CEO  
MICHAEL CARPENTER, GENERAL  
MOTORS CORPORATION, GENERAL  
MOTORS COMPANY and CEO EDWARD  
WHITACRE JR. MOTORS LIQUIDATION  
COMPANY, RESIDENTIAL CAPITAL LLC  
and CEO THOMAS MARANO, UNITED  
STATES TREASURY DEPARTMENT, GM  
ENGINEER KRIS J KORDELLA, JANE  
DOE, JOHN DOE, et al.

DEFENDANTS

REQUEST FOR JURY TRIAL

Plaintiff hereby demands a trial of this action by jury.

DATED: <sup>Aug</sup>~~July~~ 10<sup>th</sup>, 2010



John Lewis Mealer

## **EXHIBIT “L”**

1 Thomas M. Klein (010954)  
tom.klein@bowmanandbrooke.com  
2 C. Megan Fischer (019828)  
megan.fischer@bowmanandbrooke.com  
3 **BOWMAN AND BROOKE LLP**  
Suite 1600, Phoenix Plaza  
4 2901 North Central Avenue  
Phoenix, Arizona 85012-2761  
5 (602) 643-2300  
6 (602) 248-0947 – Fax

7 Attorneys for General Motors LLC (f/k/a General Motors Company)

8  
9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE DISTRICT OF ARIZONA**

11 John Lewis Mealer, ) Case No. 3:10-cv-08172-JWS  
12 Plaintiff, )  
13 v. ) **DEFENDANT GENERAL MOTORS LLC'S**  
14 ) **MOTION TO DISMISS**  
15 )  
16 ) (Oral Argument Requested)  
17 )  
18 )  
19 )  
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20 Defendant General Motors LLC (f/k/a General Motors Company), who is yet to be  
21 properly served,<sup>1</sup> appears specially for the limited purpose of submitting this motion to  
22 dismiss the Complaint of Plaintiff John Lewis Mealer for lack of successor liability and  
23 insufficient service of process pursuant to the Federal Rule of Civil Procedure ("FRCP")  
24 12(b)(5). This Motion to Dismiss is supported by the following Memorandum of Points and  
25 Authorities.

26 ///

27 **MEMORANDUM OF POINTS AND AUTHORITIES**

28 <sup>1</sup> For purposes of this motion, General Motors LLC assumes that plaintiff's attempt to serve General Motors LLC's former CEO, Edward Whitacre, was an attempt to serve the corporation of General Motors LLC pursuant to FRCP 4(h)(1)(B).

**I. INTRODUCTION**

On or about June 8, 2010, Plaintiff, John Mealer, filed a Complaint in the Superior Court of Navajo County, Arizona, against defendants GMAC Mortgage LLC, GMAC Financial Services, General Motors Corporation, General Motors Company, Motors Liquidation Company, Residential Capital LLC, United States Treasury Department, General Motors Engineer Kris J. Kordella, Jane Doe, John Doe, et al. Although the allegations in the Complaint are somewhat unclear, they may be summarized as follows: On or about June 9, 2009, plaintiff, John Lewis Mealer commented about General Motors Corporation's bankruptcy filing on some sort of blog sponsored or maintained by the *Automotive News* magazine. It appears that Mr. Kris J. Kordella ("Mr. Kordella"), an engineer employed by General Motors Corporation at that time, happened to see Mr. Mealer's comments. Upon seeing Mr. Mealer's comments, Mr. Kordella made his own observations in response to Mr. Mealer's comments.<sup>2</sup> Mr. Mealer claims that Mr. Kordella's comments were tortious, and alleges that they give rise to a variety of claims stated in the Complaint. See Complaint.

On June 1, 2009, Defendant General Motors Corporation commenced a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the Bankruptcy Court for the Southern District of New York. On July 10, 2009, General Motors Corporation consummated the sale of substantially all of its assets to NGMCO, Inc. (n/k/a General Motors LLC), a United States Treasury-sponsored purchaser, pursuant to that certain Amended and Restated Master Sale and Purchase Agreement ("MSPA"). See *generally In re General Motors Corp.*, 407 B.R. 463 (Bankr., S.D.N.Y. 2009) ("Sale Opinion") (approving sale transaction). Simultaneous with closing on the MSPA, General Motors Corporation changed its name to Motors Liquidation Company ("MLC").

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<sup>2</sup> For purposes of this motion only, General Motors LLC accepts as true the allegation or allegations of the Amended Complaint that, in posting his personal opinion, Mr. Kordella was acting in the capacity of an employee of MLC.

1 After filing the Complaint, plaintiff mailed a copy of the Complaint to Mr. Edward  
2 Whitacre, the former CEO of General Motors LLC. Delivery of the Complaint on Mr.  
3 Whitacre, by mail, however, is not proper service of General Motors LLC.

4 Plaintiff's Complaint should be dismissed because: (1) General Motors LLC has no  
5 successor liability for the actions of General Motors Corporation (n/k/a Motors Liquidation  
6 Company) or its employees; and (2) General Motors LLC has not been properly served  
7 under FRCP 12(b)(5).<sup>3</sup>

## 8 II. LEGAL ARGUMENT

### 9 A. Plaintiff's Allegations Against General Motors LLC were Permanently 10 Enjoined by the Bankruptcy Court and Any Claims of Successor Liability have been Deemed Released

11 Plaintiff alleges that the incident giving rise to his cause of action occurred  
12 on June 9, 2009. This was after General Motors Corporation's filing of voluntary  
13 bankruptcy on June 1, 2009 and before the Bankruptcy Court approved the sale of  
14 substantially all of the assets of General Motors Corporation to General Motors LLC on  
15 July 10, 2009. In acquiring these assets, General Motors LLC did not assume the liabilities  
16 of General Motors Corporation, except with certain enumerated exceptions not applicable  
17 here. In particular, General Motors LLC did not assume responsibility for claims arising  
18 from alleged tortious acts by employees of MLC that occurred prior to the July 10, 2009  
19 closing date. *Id.*, 407 B.R. at 499-507 (overruling objections by tort claimants seeking to  
20 preserve claims against New General Motors). *See also In re Chrysler, LLC*, 2009 WL  
21 2382766, pp 11-13 (2nd Cir. 2009) (bankruptcy court was permitted to authorize the sale  
22 of substantially all Chrysler's automotive assets free and clear of claims).

23 The scope and limitations of General Motors LLC's responsibilities are  
24 defined in the Bankruptcy Court's "Order (i) Authorizing Sale of Assets Pursuant to  
25 Amended and Restated Master Sale and Purchase Agreement with NGMCO, Inc., a U.S.  
26 Treasury-Sponsored Purchaser; (ii) Authorizing Assumption and Assignment of Certain  
27

28 <sup>3</sup> Again, if plaintiff was attempting to serve Mr. Whitacre in an individual capacity, he raises the  
affirmative defenses under FRCP 12(b) of lack of personal jurisdiction, insufficiency of process,  
insufficient service of process, and improper venue.

1 Executory Contracts and Unexpired Leases In Connection with the Sale; and (iii) Granting  
2 Related Relief,” entered on July 5, 2009 (the “Sale Approval Order”), which is a final  
3 binding order. See Sale Approval Order, attached as Exhibit B to General Motors LLC’s  
4 Notice of Removal.<sup>3</sup> The Sale Approval Order provides that, with the exceptions of certain  
5 liabilities expressly assumed under the relevant agreements, the assets acquired by  
6 General Motors LLC were transferred “free and clear of all liens, claims, encumbrances,  
7 and other interests of any kind or nature whatsoever. . . including rights or claims based  
8 on any successor or transferee liability. . .” *Id.*, ¶7.

9 The Bankruptcy Court ruled that the bankruptcy laws under which it issued  
10 orders and opinions preempt any conflicting state laws, including any state successor  
11 liability law. In addition, the Bankruptcy Court expressly retained jurisdiction to resolve all  
12 matters relating to the implementation, enforcement and interpretation of the very orders  
13 and opinions that Plaintiff seeks to circumvent in the filing of the State Action. Accordingly,  
14 the State Action is an impermissible collateral attack on the Bankruptcy Court's orders and  
15 opinions.

16 General Motors LLC had no employees or operations as of June 9, 2009,  
17 the date of Mr. Kordella's alleged email exchange with Mr. Mealer, so there cannot be, nor  
18 is there, a claim that Mr. Kordella worked for General Motors LLC at that time. This Court,  
19 should, therefore, dismiss plaintiff's claims against General Motors LLC. In the alternative,  
20 to the extent this Court believes there are any legitimate issues involving potential claims  
21 against General Motors LLC based on alleged actions prior to its acquisition of the assets  
22 of General Motors Corporation/MLC, this Court should transfer this matter to the  
23 Bankruptcy Court for the Southern District of New York, which retains exclusive  
24 jurisdiction over any matter or dispute arising from or relating to the Sale Approval Order.<sup>5</sup>

25 ///

26 **B. Plaintiff Has Failed To Properly Serve General Motors LLC**

27 <sup>4</sup> The Sale Approval Order is also publicly available at  
28 [http://docs.motorsliquidationdocket.com/pdfib/2968\\_order.pdf](http://docs.motorsliquidationdocket.com/pdfib/2968_order.pdf).

<sup>5</sup> If General Motors LLC is not dismissed from this matter, it intends to file a Motion to Transfer Venue to the United States District Court for the Southern District of New York.



1 Plaintiff failed to properly serve General Motors LLC under FRCP 4(h)(1)(A)  
2 or (B). Under FRCP 4(h):

3 “[A] domestic of foreign corporation [ ] must be served: (1) in a  
4 judicial district of the United States: (A) in the manner prescribed  
5 by Rule 4(e)(1) for serving an individual; or (B) by delivering a  
6 copy of the summons and of the complaint to an officer, a  
7 managing or general agent, or any other agent authorized by  
8 appointment or by law to receive service of process and- if the  
9 agent is one authorized by statute and the statute so requires- by  
10 also mailing a copy of each to the defendant[.]”

11 General Motors LLC has not been properly served in this matter. Edward  
12 Whitacre, the former CEO of General Motors LLC, was purportedly served, by mail, with  
13 the Complaint. However, Mr. Whitacre is not a qualifying officer or agent under FRCP  
14 4(h)(1)(B), nor did plaintiff “deliver” the summons and complaint as required. Based on  
15 General Motors LLC’s due diligence, it is General Motors LLC’s understanding that, to  
16 date, no other parties have been properly served in this matter. Thus, plaintiff’s attempt to  
17 serve General Motors LLC was insufficient under FRCP 4(h)(1)(B) and his complaint  
18 should be dismissed.

19 In an abundance of caution, however, General Motors LLC is filing this  
20 Motion to Dismiss within the period provided by the rules on the assumption that mailing  
21 the Complaint to Mr. Whitacre constituted effective service.

### 22 **III. CONCLUSION**

23 For the foregoing reasons, General Motors LLC respectfully requests that this Court  
24 dismiss plaintiff’s claims against General Motors LLC because there is no successor liability  
25 for any alleged actions that took place prior to July 10, 2009, and because General Motors  
26 LLC was not properly served.

27 ///

28 ///

///

///

Dated this *15th* day of *September*, 2010.

BOWMAN AND BROOKE LLP

By: /s/ Thomas M. Klein

Thomas M. Klein  
C. Megan Fischer  
Attorneys for General Motors LLC (f/k/a  
General Motors Company)

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**CERTIFICATE OF SERVICE**

I hereby certify that on the *15th* day of *September*, 2010, I caused the attached  
**DEFENDANT GENERAL MOTORS LLC'S MOTION TO DISMISS** to be electronically  
transmitted to the Clerk's Office using the CM/ECF System for filing and service to the  
following:

John Lewis Mealer, Pro Per  
6333 Gardenia Lane  
Show Low, Arizona 85901  
jlmealer@mealercompanies.com

Colt B. Dodrill, Esq.  
WOLFE & WYMAN LLP  
980 Kelly Johnson Drive, Suite 140  
Las Vegas, NV 89119  
cbdodrill@wolfewyman.com  
Attorneys for General MotorsAC Mortgage, LLC

/s/ D. Schwartz

## **EXHIBIT “M”**

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

<b>JOHN LEWIS MEALER,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>3:10-cv-08172 JWS</b>
	)	
<b>vs.</b>	)	<b>ORDER AND OPINION</b>
	)	
<b>GMAC MORTGAGE LLC, et al.,</b>	)	<b>[Re: Motion at Docket 8 ]</b>
	)	
<b>Defendants.</b>	)	
	)	

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**I. MOTION PRESENTED**

At docket 8, defendant General Motors LLC ("GM") moves pursuant to Federal Rule of Civil Procedure 12(b)(5) to dismiss the case for insufficient service of process. Although GM does not cite Rule 12(b)(6) in its motion, it is perfectly clear from its supporting memorandum that it is also moving pursuant to that rule to dismiss the complaint for failure to state a claim upon which relief may be granted. Plaintiff John L. Mealer ("Mr. Mealer") opposes the motion at docket 20. GM's reply is at docket 22. Oral argument was requested, but would not assist the court.

**II. BACKGROUND**

This case arises out of allegedly defamatory comments made in response to an internet blog posting. On June 1, 2009, General Motors Corporation filed for

bankruptcy. On July 10, 2009, the bankruptcy court approved the sale of substantially all of the assets of General Motors Corporation to NGMCO, Inc., an entity sponsored by the United States Treasury. General Motors Corporation subsequently changed its name to Motors Liquidation Company and NGMCO, Inc. became General Motors LLC.

Mr. Mealer claims to have developed technology that will revolutionize the automobile and vault his company—Mealer Companies LLC (“Mealer Companies”)—from obscurity into direct competition with GM and other major automakers. Mr. Mealer alleges that on June 9, 2009, Kris J. Kordella, an engineer for General Motors Corporation, made disparaging remarks about Mr. Mealer on his company's website. The remarks were a response to Mr. Mealer's posting about the General Motors Corporation bankruptcy on the *Automotive News* website. Mr. Mealer believes that those remarks had considerable sway on potential investors such that Mealer Companies lost all potential investment capital to the tune of \$200,000,000.

Mr. Mealer filed a lawsuit in Arizona state court, asserting forty claims against GMAC Mortgage LLC, GMAC Financial Services, General Motors Corporation, General Motors Company, Motors Liquidation Company, Residential Capital LLC, the United States Department of the Treasury, and Mr. Kordella. Mr. Mealer served process on GM by mailing a copy of the summons and complaint to Edward Whitacre, GM's former CEO. The case was removed to the District of Arizona on September 14, 2010. Mr. Mealer is proceeding *pro se*.

### **III. STANDARDS OF REVIEW**

#### **A. Insufficiency of Service of Process**

A motion to dismiss under Federal Rule of Civil Procedure 12(b)(5) for insufficient service of process is governed by the procedural requirements of Federal Rule of Civil Procedure 4(c).<sup>1</sup> Rule 4(c) provides that "a summons must be served with a copy of the complaint."<sup>2</sup> "Rule 4 is a flexible rule that should be liberally construed so long as the party receives sufficient notice of the complaint."<sup>3</sup> In determining whether service was valid, whether actual notice was given is "highly probative."<sup>4</sup>

#### **B. Failure to State a Claim**

A motion to dismiss for failure to state a claim, pursuant to Federal Rule of Civil Procedure 12(b)(6), tests the legal sufficiency of a plaintiff's claims. In reviewing such a motion, "[a]ll allegations of material fact in the complaint are taken as true and construed in the light most favorable to the nonmoving party."<sup>5</sup> Dismissal for failure to state a claim can be based on either "the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory."<sup>6</sup> "Conclusory

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<sup>1</sup>5B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1353 (3d ed. 2010).

<sup>2</sup>Fed. R. Civ. P. 4(c)(1).

<sup>3</sup>*Direct Mail Specialists, Inc. v. Eclat Computerized Technologies, Inc.*, 840 F.2d 685, 688 (9th Cir. 1988).

<sup>4</sup>*Homer v. Jones-Bey*, 415 F.3d 748, 758 (7th Cir. 2005).

<sup>5</sup>*Vignolo v. Miller*, 120 F.3d 1075, 1077 (9th Cir. 1997).

<sup>6</sup>*Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1990).

allegations of law . . . are insufficient to defeat a motion to dismiss.”<sup>7</sup> To avoid dismissal, a plaintiff must plead facts sufficient to “state a claim to relief that is plausible on its face.”<sup>8</sup> Thus, for a complaint to survive a motion to dismiss under Rule 12(b)(6), “the non-conclusory factual content, and reasonable inferences from that content, must be plausibly suggestive of a claim entitling the plaintiff to relief.”<sup>9</sup>

#### **IV. DISCUSSION**

##### **A. Mr. Mealer Properly Served GM Through Its Former CEO**

GM argues that Mr. Mealer did not comply with Federal Rule of Civil Procedure 4(h).<sup>10</sup> Under that rule, “a domestic . . . corporation . . . or other unincorporated association . . . must be served . . . by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized . . . by law to receive service of process.”<sup>11</sup> GM maintains that the summons and complaint were not “deliver[ed]” within the meaning of Rule 4(h) and that Mr. Whitacre was not a qualifying officer or agent for service of process. Mr. Mealer counters that he complied with Arizona Rule of Civil Procedure 4.2(c), which states the requisite procedure for service by mail.

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<sup>7</sup>*Lee v. City of Los Angeles*, 250 F.3d 668, 679 (9th Cir. 2001).

<sup>8</sup>*Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009).

<sup>9</sup>*Moss v. U.S. Secret Serv.*, 572 F.3d 962, 969 (9th Cir. 2009) (internal quotation and citation omitted).

<sup>10</sup>Doc. 8 at 5.

<sup>11</sup>Fed. R. Civ. P. 4(h)(1)(B).



GM's reliance on Federal Rule 4(h) is technically error because "[t]he issue of the sufficiency of service of process prior to removal is strictly a state law issue."<sup>12</sup>

Consequently, "[i]n determining the validity of service in the state court prior to removal, a federal court must apply the law of the state under which the service was made."<sup>13</sup>

Arizona Rule of Civil Procedure 4.2(h) provides that "[i]n case of a corporation or partnership or unincorporated association located outside [Arizona] but within the United States . . . service . . . shall be made on one of the persons specified in Rule 4.1(k)."<sup>14</sup>

Arizona Rule 4.1(k) mirrors Federal Rule 4(h) and specifies that service can be made on "a partner, an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process."<sup>15</sup>

Mr. Mealer complied with the letter of Rule 4.2(c) in attempting to serve GM.<sup>16</sup> The certified mailing was signed for by Mike Darowski, presumably an employee of GM.<sup>17</sup> To the extent that Darowski had authority to "accept restricted delivery mail on [Whitacre's] behalf," it is of no moment that Whitacre did not "expressly or specifically

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<sup>12</sup>*Lee v. City of Beaumont*, 12 F.3d 933, 936–37 (9th Cir. 1993), *overruled on other grounds by Cal. Dep't of Water Resources v. Powerex Corp.*, 533 F.3d 1087 (9th Cir. 2008).

<sup>13</sup>4A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1082 (3d ed. 2010).

<sup>14</sup>Ariz. R. Civ. P. 4.2(h).

<sup>15</sup>Ariz. R. Civ. P. 4.1(k).

<sup>16</sup>See doc. 20 at 29, 40.

<sup>17</sup>*Id.* at 40.

authorize [Darowski] or otherwise appoint[] an agent[] to accept service of process on [his] behalf.”<sup>18</sup>

The crux of GM’s argument is that when Mr. Mealer mailed the summons and complaint, Mr. Whitacre was no longer an officer. However, “Arizona courts have recognized effective service of process even on an ostensible (or apparent) agent in the corporate context.”<sup>19</sup> In *Koven*, the court found service of a corporation’s former officer to be effective based on agency principles.<sup>20</sup> Those same principles apply to the case at bar. “[I]n order to establish ‘ostensible’ authority, the record must reflect that the alleged principal not only represented another as his agent, but that the person who relied upon the manifestation was reasonably justified in doing so under the facts of the case.”<sup>21</sup> Mr. Mealer argues that he “had no reason not to rely on” GM’s website—which identified Mr. Whitacre as CEO—in determining an appropriate officer to serve.<sup>22</sup> Under the circumstances, the court agrees that GM represented Mr. Whitacre to be an officer of the corporation and that Mr. Mealer was reasonably justified in relying on that representation.

GM’s final argument is that Mr. Mealer “failed to identify Mr. Whitacre as an agent of [GM] when mailing him the complaint.”<sup>23</sup> GM cites *Biaett v. Phoenix Title & Trust Co.*,

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<sup>18</sup>*Barlage v. Valentine*, 110 P.3d 371, 376 (Ariz. 2005).

<sup>19</sup>*Id.* at 377 (citing *Koven v. Saberdyne Systems, Inc.*, 625 P.2d 907, 911 (1980)).

<sup>20</sup>*Koven*, 625 P.2d at 911.

<sup>21</sup>*Id.* at 911–12.

<sup>22</sup>Doc. 20 at 7.

<sup>23</sup>Doc. 22 at 4.

in support of its contention.<sup>24</sup> The *Biaett* court, however, stated that “to accomplish [by mail] legal service on a corporation . . . it is necessary that the officer to whom the papers are mailed be expressly designated as such.”<sup>25</sup> Mr. Mealer did not need to identify Mr. Whitacre as an agent of GM, only as an officer. That is precisely what he did.<sup>26</sup>

#### **B. GM Is Not Liable For the Tortious Conduct Alleged in the Complaint**

GM contends that Mr. Mealer’s complaint against it must be dismissed for failure to state a claim pursuant to Rule 12(b)(6). GM argues that it is not subject to successor liability—claims “asserted against the successor in ownership of property that was transferred from the entity whose alleged wrongful acts give rise to the claim.”<sup>27</sup> The order approving the sale of substantially all of General Motors Corporation’s assets to GM is clear: “GM would voluntarily assume liability for warranty claims, and for product liability claims asserted by those injured after the [sale]—even if the vehicle was manufactured before the [sale]. But . . . GM would not assume any [General Motors Corporation] liabilities for injuries that arose before the [sale].”<sup>28</sup> The offensive remarks were made on June 1, 2009. GM acquired General Motors Corporation’s assets on July 10, 2009. Mr. Mealer’s alleged injuries therefore arose before the sale of General

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<sup>24</sup>217 P.2d 923 (Ariz. 1950).

<sup>25</sup>*Id.* at 926.

<sup>26</sup>Doc. 20 at 40.

<sup>27</sup>*In re General Motors Corp.*, 407 B.R. 463, 500 (Bankr. S.D.N.Y. 2009).

<sup>28</sup>*Id.*

Motors Corporation's assets to GM. Because GM did not assume successor liability, Mr. Mealer's claims against GM are barred.

**V. CONCLUSION**

For the foregoing reasons, GM's motion at docket 8 to dismiss the case pursuant to Federal Rule of Civil Procedure 12(b)(5), for insufficient service of process, is **DENIED**. GM's simultaneous motion to dismiss the case pursuant to Federal Rule of Civil Procedure 12(b)(6) is **GRANTED**, and the claims against GM are **DISMISSED**.

DATED this 1<sup>st</sup> day of November 2010.

/s/ JOHN W. SEDWICK  
UNITED STATES DISTRICT JUDGE

## **EXHIBIT “N”**

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

<b>JOHN L. MEALER,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>3:10-cv-08172 JWS</b>
	)	
<b>vs.</b>	)	<b>ORDER AND OPINION</b>
	)	
<b>GMAC MORTGAGE LLC, <i>et al.</i>,</b>	)	<b>[Re: Motion at Docket 16]</b>
	)	
<b>Defendants.</b>	)	
	)	

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**I. MOTION PRESENTED**

At docket 16, defendant Kris J. Kordella moves to dismiss the case pursuant to Rules 12(b)(6), 12(b)(5), and 12(b)(2) for failure to state a claim, insufficient service of process, and lack of personal jurisdiction. Plaintiff John L. Mealer opposes the motion at docket 20. No reply was filed. Oral argument was requested, but would not assist the court.

**II. BACKGROUND**

This case arises out of allegedly defamatory comments made in response to an internet blog posting. On June 1, 2009, General Motors Corporation filed for bankruptcy. On July 10, 2009, the bankruptcy court approved the sale of substantially all of the assets of General Motors Corporation to NGMCO, Inc., an entity sponsored by

the United States Treasury. General Motors Corporation subsequently changed its name to Motors Liquidation Company and NGMCO, Inc. became General Motors LLC (“GM”).

Mr. Mealer claims to have developed technology that will revolutionize the automobile and vault his company—Mealer Companies LLC (“Mealer Companies”)—from obscurity into direct competition with GM and other major automakers. Mr. Mealer alleges that on June 9, 2009, Kris J. Kordella, an engineer for General Motors Corporation, made disparaging remarks about Mr. Mealer on his company’s website. The remarks were a response to Mr. Mealer’s posting about the General Motors Corporation bankruptcy on the *Automotive News* website. Mr. Mealer believes that those remarks had considerable sway on potential investors such that Mealer Companies lost all potential investment capital to the tune of \$200,000,000.

Mr. Mealer filed a lawsuit in Arizona state court, asserting forty claims against GMAC Mortgage LLC, GMAC Financial Services, General Motors Corporation, General Motors Company, Motors Liquidation Company, Residential Capital LLC, the United States Department of the Treasury, and Mr. Kordella. Mr. Mealer served process on Mr. Kordella via certified mail. Mr. Mealer is proceeding *pro se*.

### **III. STANDARD OF REVIEW**

#### **A. Failure to State a Claim**

A motion to dismiss for failure to state a claim, pursuant to Federal Rule of Civil Procedure 12(b)(6), tests the legal sufficiency of a plaintiff’s claims. In reviewing such a motion, “[a]ll allegations of material fact in the complaint are taken as true and

construed in the light most favorable to the nonmoving party.”<sup>1</sup> Dismissal for failure to state a claim can be based on either “the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory.”<sup>2</sup> “Conclusory allegations of law . . . are insufficient to defeat a motion to dismiss.”<sup>3</sup> To avoid dismissal, a plaintiff must plead facts sufficient to “state a claim to relief that is plausible on its face.”<sup>4</sup> Thus, for a complaint to survive a motion to dismiss under Rule 12(b)(6), “the non-conclusory factual content, and reasonable inferences from that content, must be plausibly suggestive of a claim entitling the plaintiff to relief.”<sup>5</sup>

## **B. Insufficiency of Service of Process**

A motion to dismiss under Federal Rule of Civil Procedure 12(b)(5) for insufficient service of process is governed by the procedural requirements of Federal Rule of Civil Procedure 4(c).<sup>6</sup> Rule 4(c) provides that “a summons must be served with a copy of the complaint.”<sup>7</sup> “Rule 4 is a flexible rule that should be liberally construed so long as the

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<sup>1</sup>*Vignolo v. Miller*, 120 F.3d 1075, 1077 (9th Cir. 1997).

<sup>2</sup>*Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1990).

<sup>3</sup>*Lee v. City of Los Angeles*, 250 F.3d 668, 679 (9th Cir. 2001).

<sup>4</sup>*Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009).

<sup>5</sup>*Moss v. U.S. Secret Serv.*, 572 F.3d 962, 969 (9th Cir. 2009) (internal quotation and citation omitted).

<sup>6</sup>5B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1353 (3d ed. 2010).

<sup>7</sup>Fed. R. Civ. P. 4(c)(1).



party receives sufficient notice of the complaint.”<sup>8</sup> In determining whether service was valid, whether actual notice was given is “highly probative.”<sup>9</sup>

### **C. Lack of Personal Jurisdiction**

“Where a defendant moves to dismiss a complaint [pursuant to Federal Rule of Civil Procedure 12(b)(2),] for lack of personal jurisdiction, the plaintiff bears the burden of establishing that a court has personal jurisdiction over a defendant.”<sup>10</sup> Where the motion is based only upon written materials, rather than an evidentiary hearing, the plaintiff is required only to make a prima facie showing of personal jurisdiction.<sup>11</sup> Uncontroverted allegations in the complaint are taken as true, and conflicts between parties over statements contained in affidavits are resolved in favor of the plaintiff.<sup>12</sup>

“Where, as here, there is no applicable federal statute governing personal jurisdiction, the district court applies the law of the state in which the district court sits.”<sup>13</sup> Arizona’s long-arm statute authorizes the exercise of jurisdiction to the extent permitted by federal due process requirements.<sup>14</sup> Due process requires that the defendant “have

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<sup>8</sup>*Direct Mail Specialists, Inc. v. Eclat Computerized Technologies, Inc.*, 840 F.2d 685, 688 (9th Cir. 1988).

<sup>9</sup>*Homer v. Jones-Bey*, 415 F.3d 748, 758 (7th Cir. 2005).

<sup>10</sup>*Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004).

<sup>11</sup>*Dole Food Co., Inc. v. Watts*, 303 F.3d 1104, 1108 (9th Cir. 2002).

<sup>12</sup>*Brayton Purcell LLP v. Recordon & Recordon*, 575 F.3d 981, 985 (9th Cir. 2009).

<sup>13</sup>*Fred Martin Motor Co.*, 374 F.3d at 800.

<sup>14</sup>*Batton v. Tenn. Farmers Mut. Ins. Co.*, 736 P.2d 2, 4 (Ariz. 1987).

certain minimum contacts with [the forum] such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.”<sup>15</sup>

#### **IV. DISCUSSION**

##### **A. Failure to State a Claim**

Mr. Kordella moves to dismiss Mr. Mealer’s complaint for failure to state a claim.<sup>16</sup> The only argument that Mr. Kordella makes in support of his position is that GM did not assume the liabilities of its predecessor—General Motors Corporation.

Mr. Kordella incorporates the contents of GM’s motion to dismiss, which was based on that theory and which the court granted at docket 30, into his own motion. Mr. Kordella does not explain how the circumstances of GM’s bankruptcy affect legal claims against him personally. Mr. Kordella cites no case law and states only that he “was included in that claim by plaintiff.”<sup>17</sup> It is unclear what claim he is referring to.

Elsewhere in Mr. Kordella’s motion, he states that Mr. Mealer accepted Mr. Kordella’s apology and, therefore, that “no claims can be sustained and dismissal is proper.”<sup>18</sup> Mr. Kordella’s theory is unclear, and he cites no case law in support of his position. Even though Mr. Kordella purports to have moved pursuant to Rule 12(b)(6), the court is unable to discern any theory for consideration under that rule.\

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<sup>15</sup>*Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) (internal quotations omitted).

<sup>16</sup>Doc. 16 at 1, 6.

<sup>17</sup>Doc. 16 at 4.

<sup>18</sup>Doc. 16 at 3.

## B. Insufficiency of Service of Process

Mr. Kordella argues that he “was not served personally” and therefore that dismissal for insufficient service is appropriate.<sup>19</sup> Mr. Kordella’s argument is based on Federal Rule 4(e)(2)(A), which states that “an individual . . . may be served in a judicial district of the United States by . . . delivering a copy of the summons and of the complaint to the individual personally.”<sup>20</sup> Mr. Mealer argues that he properly served Mr. Kordella pursuant to Arizona state law.

Mr. Kordella’s reliance on Federal Rule 4(e) is technically error because “[t]he issue of the sufficiency of service of process prior to removal is strictly a state law issue.”<sup>21</sup> Consequently, “[i]n determining the validity of service in the state court prior to removal, a federal court must apply the law of the state under which the service was made.”<sup>22</sup> Even if it were an issue of federal law, Federal Rule 4(e)(1) states that service of an individual may be made “in a judicial district of the United States” by “following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located of where service is made.”<sup>23</sup> Therefore, service of process on Mr. Kordella must only have been valid under Arizona law.

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<sup>19</sup>Doc. 16 at 4.

<sup>20</sup>Fed. R. Civ. P. 4(e)(2)(A).

<sup>21</sup>*Lee v. City of Beaumont*, 12 F.3d 933, 936–37 (9th Cir. 1993), *overruled on other grounds by Cal. Dep’t of Water Resources v. Powerex Corp.*, 533 F.3d 1087 (9th Cir. 2008).

<sup>22</sup>4A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1082 (3d ed. 2010).

<sup>23</sup>Fed. R. Civ. P. 4(e)(1).

Under Arizona Rule of Civil Procedure 4.2(c), “[w]hen the whereabouts of a party is known, service may be made by depositing the summons and a copy of the pleading being served in the post office, postage prepaid, to be sent to the person to be served by any form of mail requiring a signed and returned receipt.”<sup>24</sup> Mr. Mealer complied with the requirements of Rule 4.2(c) and service was effective under Arizona law.<sup>25</sup>

### **C. Lack of Personal Jurisdiction**

The final issue is whether this court has personal jurisdiction over Mr. Kordella. Mr. Kordella argues that he “engaged in no activities within Arizona, nor had any contact with plaintiff in Arizona” and therefore, that this court is without jurisdiction over his person.<sup>26</sup> Mr. Mealer does not address the question of personal jurisdiction in his response, but does advance relevant arguments in his complaint.

Mr. Mealer has not alleged contacts sufficient to support a finding of general jurisdiction. The only question is whether Mr. Kordella’s sole alleged contact—the allegedly defamatory blog posting—supports specific jurisdiction. Specific jurisdiction describes personal jurisdiction over a defendant where the plaintiff asserts claims related to the defendant’s contacts with the forum. Specific jurisdiction “exists if (1) the defendant has performed some act or consummated some transaction within the forum or otherwise purposefully availed himself of the privileges of conducting activities in the forum, (2) the claim arises out of or results from the defendant’s forum-related activities,

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<sup>24</sup>Ariz. R. Civ. P. 4.2(c).

<sup>25</sup>Doc. 20 at 29, 31–33, 38.

<sup>26</sup>Doc. 16 at 6.

and (3) the exercise of jurisdiction is reasonable.”<sup>27</sup> The first prong—purposeful availment—is dispositive in the case at bar.

### **1. Mr. Kordella’s Internet Posting Does Not Independently Constitute Purposeful Availment**

With respect to purposeful availment in tort cases, the question is generally “whether a defendant ‘purposefully directs his activities’ at the forum state” and courts apply “an ‘effects’ test that focuses on the forum in which the defendant’s actions were felt, whether or not the actions themselves occurred within the forum.”<sup>28</sup> The effects test was first announced by the Supreme Court in *Calder v. Jones*.<sup>29</sup> The Ninth Circuit has construed the *Calder* test to comprise three prongs: “the defendant allegedly must have (1) committed an intentional act, (2) expressly aimed at the forum state, (3) causing harm that the defendant knows is likely to be suffered in the forum state.”<sup>30</sup>

Although the allegations against Mr. Kordella satisfy the first prong, the second and third prongs are not met. For purposes of personal jurisdiction, the relevant intentional act is Mr. Kordella’s allegedly defamatory posting on the Mealer Companies’ website. Mr. Mealer argues that “the harm at issue in this case” took place in Arizona and, therefore, that this court has personal jurisdiction over Mr. Kordella.<sup>31</sup> However,

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<sup>27</sup>*Bancroft & Masters, Inc. v. Augusta Nat’l, Inc.*, 223 F.3d 1082, 1086 (9th Cir. 2000).

<sup>28</sup>*Id.*

<sup>29</sup>465 U.S. 783, 789–90 (1984).

<sup>30</sup>*Yahoo! Inc. v. La Ligue Contre Le Racisme Et L’Antisemitisme*, 433 F.3d 1199, 1206 (9th Cir. 2006).

<sup>31</sup>Doc. 20 at 46.

the Ninth Circuit has “warned courts not to focus too narrowly on the test’s third prong—the effects prong.”<sup>32</sup> Specifically, the Ninth Circuit has “said that there must be something more . . . [and] that something more is . . . express aiming at the forum state.”<sup>33</sup>

Mr. Mealer’s allegations do not support a finding that Mr. Kordella expressly aimed his commentary at Arizona. As this district has previously recognized, “[t]he distinction between ‘express aiming’ and ‘foreseeability’ suggests that mere knowledge of an individual’s residence, combined with intentional posting of defamatory statements on the internet (which, taken together, makes it foreseeable an individual will be harmed in a certain forum location) does not amount to ‘express aiming.’”<sup>34</sup> Mr. Kordella did “nothing more than post a statement on a [website] hosted in Arizona.”<sup>35</sup> Even assuming that Mr. Kordella knew that Mr. Mealer lived in Arizona when the posting was made, Mr. Mealer has not sufficiently alleged that Mr. Kordella’s conduct was expressly aimed at Arizona. Mr. Mealer’s own allegations are illustrative.

Mr. Mealer alleges (and thus recognizes) that Mr. Kordella’s comments were “intentionally publish[ed] on a *global* scale.”<sup>36</sup> The very fact that an internet posting is

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<sup>32</sup>*Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1156 (9th Cir. 2006).

<sup>33</sup>*Bancroft & Masters, Inc. v. Augusta Nat’l, Inc.*, 223 F.3d 1082, 1087 (9th Cir. 2000) (internal quotations omitted).

<sup>34</sup>*Xcentric Venture, LLC v. Bird*, 683 F. Supp. 2d 1068, 1073 (D. Ariz. 2010).

<sup>35</sup>*Bobolas v. Does 1-100*, 2010 WL 3923880, at \*2 n.1 (D. Ariz. Oct. 1, 2010) (expressing “concerns about whether [a court] can exercise personal jurisdiction” over defendants whose sole jurisdictional contact is an internet posting on a site hosted in the forum).

<sup>36</sup>Doc. 20 at 48 (emphasis added). Mr. Mealer repeatedly emphasizes the “global” nature of the alleged defamation. See, e.g., *id.* at 49, 50, 51.

immediately global belies the notion that every potentially defamatory comment on a website is “expressly aimed” at the forum in which the website’s host is located. Unless a website has unique ties to a particular forum, or the content of the offensive comment is somehow forum-specific, a blog posting of the type at issue here will seldom—if ever—constitute purposeful availment. Because the internet is worldwide, Mr. Kordella’s internet commentary lacks the “something more” that the Ninth Circuit has articulated as express aiming.

Moreover, Mr. Mealer has not adequately alleged that Mr. Kordella caused harm that he knew was likely to be suffered in Arizona. Mr. Mealer believes that Mr. Kordella’s comments intimidated numerous potential investors and ultimately kept his \$200,000,000 investment stream from materializing. Mr. Kordella could not have known that this harm was likely to be suffered in Arizona because it is simply not likely that any blog posting could cause such a response from serious investors—especially if Mr. Mealer’s automobile is truly revolutionary. Therefore, the third prong of the effects test is also not satisfied.

## **V. CONCLUSION**

For the foregoing reasons, Mr. Kordella's motion at docket 16 to dismiss the claims against him for lack of personal jurisdiction, pursuant to Federal Rule 12(b)(2), is **GRANTED**, and the claims against Mr. Kordella are **DISMISSED**.

DATED this 16<sup>th</sup> day of November 2010.

/s/ JOHN W. SEDWICK  
UNITED STATES DISTRICT JUDGE



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
	:
<b>In re</b>	:
	:
<b>MOTORS LIQUIDATION COMPANY, <i>et al.</i>,</b>	:
<b>f/k/a General Motors Corp., <i>et al.</i></b>	:
	:
<b>Debtors.</b>	:
	:
-----X	

**Chapter 11 Case No.**

**09-50026 (REG)**

**(Jointly Administered)**

**ORDER GRANTING DEBTORS' OBJECTION TO  
ADMINISTRATIVE CLAIM NO. 70792 FILED BY JOHN MEALER**

Upon the Objection, dated February 26, 2011 (the “**Objection**”)<sup>1</sup>, of Motors Liquidation Company (f/k/a General Motors Corporation) and its affiliated debtors, as debtors in possession (collectively, the “**Debtors**”), pursuant to section 502(b) of title 11, United States Code (the “**Bankruptcy Code**”) and Rule 3007(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), seeking entry of an order disallowing and expunging the Mealer Claim on the grounds that the Mealer Claim fails to state a cause of action on which relief can be granted, all as more fully described in the Objection; and due and proper notice of the Objection having been provided, and it appearing that no other or further notice need be provided; and the Court having found and determined that the relief sought in the Objection is in the best interests of the Debtors, their estates, creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

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<sup>1</sup> Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

ORDERED that the relief requested in the Objection is granted as  
provided herein; and it is further

ORDERED that, pursuant to section 502(b) of the Bankruptcy Code, the  
Mealer Claim (Administrative Claim No. 70792) is disallowed and expunged in its  
entirety; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine  
all matters arising from or related to this Order.

Dated: New York, New York  
[\_\_\_\_], 2011

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United States Bankruptcy Judge